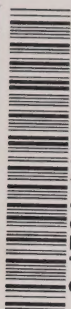


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ONTARIO LEGISLATIVE ASSEMBLY

SELECT COMMITTEE
ON

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THE MUNICIPAL ACT AND RELATED ACTS

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LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-THIRD MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT

AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY
JULY 4th, 1962

AFTERNOON SESSION

HOLLIS H. BRACKETT, Q.C.

MRS. H. G. ROMAN

MRS. E. HAYON

J. A. TAYLOR

MEMBERS:

CHAIRMAN

Secretary

Asst. Secretary

Solicitor

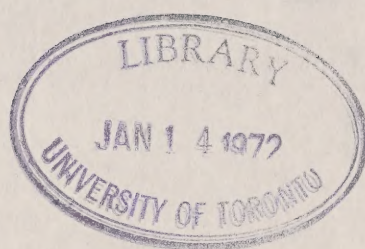
Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer
Thomas D. Thomas

ATTENDANCE:

Mr. O. Palsell

PRESENTATION:

REPORT - PARKS & RECREATION COMMISSION - SCARBOROUGH



HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, Mr Dalzell is here from the Parks and Recreation Commission for the Township of Scarborough. Now Mr Dalzell if you would like to read your Brief or comment, whichever you wish, and then at the end you can make that suggestion you made to me about a suitable amendment.

MR DALZELL: Mr Chairman, and Gentlemen, this Brief is concerning the legislation on the matter of municipal parks and recreation. (reads Brief) "The attached comments..... from this opportunity." (end of Brief) Gentlemen, at the back of this Brief, I have listed the various Acts and the various Provincial Departments involved there, though I must say that any municipality that undertakes to operate a combined program of Parks and Recreation in a joint operation, or even as two separate municipal operations, is confronted with a conglomeration of legislation spread over half a dozen Provincial Departments and for purposes of ready reference, the various branches and departments are listed, as follows:- The Community Programmes Branch, which deals almost exclusively with any type of recreation program is handled by the Dept of Education; the Community Centres Act, under the jurisdiction of the Horticulture and Societies Branch of the Dept of Agriculture, is really only legislation that enables municipalities to get grants for the facilities which they have built. The Public Parks Act is administered by the Dept of Municipal Affairs, and this is a piece of legislation that enables the establishment of a Board of Parks Management, and does not deal in any way with any recreation program.



The 5% Public Land Dedication is handled by the Dept of Development & Commerce, and this of course comes into being when subdivisions are being processed and neighbourhood areas are required. This is handled, of course under the Planning Act. The Parks Assistance Act is very new and is handled by the Conservation and Parks Branch of the Dept of Commerce and Development. It could be of assistance to municipalities in metropolitan areas; it's not much help throughout the outlying areas; where the smaller municipalities have parks for tourism, this has some advantages. The Construction and Management of Swimming Pools, of course is handled under the Dept of Public Health, and I understand there have been some recent amendments to the Health Act to govern the operation of swimming pools. The Museums Programmes, once again is handled by the Programmes Branch of the Dept of Education. This on the municipal end, Parks Departments becomes handled with the operation of museums from time to time. The Athletics Control Act under a commissioner is attached to the Dept of Labour, and there are various types of assistance that can be had through the Athletic Commissioner's Office. These eight are the basic ones that the municipalities are concerned with, and these others that I have listed here are provincial departments that deal with the matter of parks and open spaces:- Parks Branch of Lands and Forests; Roadside Parks, the Dept of Highways; the Parks Commission under the Dept of Labour; the Ontario-St. Lawrence Development Commission under the Dept of Commerce and Development; the Parks Integration Board under the Provincial Treasurer's Dept; the Physical Fitness Study which is handled by the Dept of Public Health. (continues Remarks, page 2) "For purposes of.....the present day requirements (end of page 2)

MR BECKETT: Is this 1 mill for parks only?

MR DUNNELL: Yes the 1 mill is for parks only.

(continues, page 3) "5% Public Land.....Dept of Municipal Affairs."

(page 3, line 4)

MR TAYLOR: This 5% for parks...it is for public

use.

MR BECKETT: For public purposes according to the Act.

MR SINGER: But the Department regards it as parks. It says so in their Bulletin.

MR BECKETT: It's not very extensive.

MR SINGER: I know, but I read that in the House a couple of years ago- you know that mimeographed Bulletin- and it said that's the way it should be used notwithstanding the wording etc.

MR DALZELL: (Continues, page 3, line 5) "The acquisition of..... from another Department" (page 3, end para 1)

MR SINGER: How do you reach the figure of about one half? Why do you say it is only one half?

MR DALZELL: The municipality to which I am attached, Sir, which is Scarborough, we estimate that what we acquire by the 5% of the land dedication, we budget to buy a like amount each year to meet the total need as we see it. If we were to settle...thinking of the number of people who come in each year per acre developed for residential purposes, we would need to buy a like amount.

MR SINGER: That's the first time I've ever heard that and you may be entirely right; I've never heard it expressed that way and my experience in North York may vindicate the necessity.

MR BECKETT: I think if you sit down and think it out though, Mr Singer, it is so.

MR DALZELL: In terms of dollars, Mr Chairman, it might be interesting to note that we intend to budget \$100,000 a year for land purchases in addition to the 5% Public Land Dedication.

MR SINGER: For land purposes or for public purposes or for park purposes?

MR DALZELL: For park purposes only.

MR BECKETT: Assuming that 5% is for public purposes.

MR DALZELL: Yes, and this is not that it is set out that you would need \$100,000 per year each year ad infinitum; this has something to do with an inherited park deficiency which we have and in the future, we might decrease this to \$50,000 when the deficiency is met.

MR MORROW: Some of the older established communities, for example, the gentlemen that appeared from Pickering, think

the 5% is too much and they didnt want any at all; they couldnt use it.

MR DALZELL: It would be interesting to know, Sir, what standard for development of population they use to arrive at this.

MR SINGER: Well, Waterloo says the same thing; they have enough land in municipal ownership now they contemplate they will ever need. Maybe Waterloo is a much older municipality.

MR DALZELL: Yes. It would be very difficult to establish here a rule of thumb that would apply across the board, because the City of Toronto, for example, would be completely thrown out because they have to pay \$100,000 for one lot sometimes, to buy land for park purposes.

MR SINGER: Wouldnt Scarborough have acquired a great deal of land for tax arrears in the '30's?

MR BECKETT: They sold it- it's all gone.

MR SINGER: North York held quite a bit of that. It was used for parks and other usages.

MR DALZELL: (continues, page 3, para 2) "Parks Assistance Act.....within their jurisdiction."

MR MORTON: I cant see why they have put this under Commerce and Development.

MR SINGER: This is a comparatively new Act- now this is the one I suggested be in Municipal Affairs with Planning and Development.

MR DALZELL: I would just like to make an observation, Mr Chairman; in the confusion at the moment of not knowing who these belong to, fully illustrates to a great degree that we here, who have made a study of this thing, think we know about it and we dont really.

MR SINGER: Right.

MR BECKETT: When it comes to Parks - Provincial Parks, of course that's a different situation.

MR DALZELL: Well, speaking on this item, Mr Chairman, this has nothing to do with Provincial Parks- as I understand it, the Parks Assistance Act is a form of assistance to municipalities to help them develop parks within the municipalities.

MR SINGER: Yes, up to \$50,000 per location.

MR DALZELL: (continues, page 3, para 3) "The Construction and..... Programmes Branch." There is some new legislation, possibly it is in effect now, so maybe my description of inadequate legislation may not be 100%. (continues, page 3, para 4) "Museum Programmes..... of Education." I didnt mention here a Branch of the Dept of Travel and Publicity that is involved in the legislation concerning museums. (continues, page 3, para 5) "The Athletics Control Act.....and a provincial department." Mr Chairman, I'm not sure if you want to get into this next group; they have no relation to Municipal Affairs at all. When this information was prepared, it wasnt prepared specifically for the Municipal Affairs....

MR BECKETT: Well you might tell the Committee how you could consolidate the different jurisdictions as far as the Government is concerned, not only by statutes but in regard to grants.

MR DALZELL: To that, Mr Chairman, I would say this, there is one other important matter I have left out of all these notes, that is, that at the moment if the municipality were to embark now upon a combined or joint program of parks and recreation, there is no one piece of legislation that enables us to pass a by-law to appoint a Board or a Commission. If I might use North York as an example at the moment- it is operated by a Committee of Council, so that very simply the Council of North York passed a by-law appointing a Committee of Council to administer the matters. If they wanted to do it separately, you would have one piece of legislation under the Community Programmes Branch of the Dept of Education which is registered as recreation program; then under the Public Parks Act, they could appoint a Board of Management; but there is no legislation at the moment to provide for the appointment of a Joint-Board which is the modern way to do it. So in this way, we are deficient. As far as the Grants-in-Aid are concerned, at the moment the Grants-in-Aid only come from two sources; they come from the Community Programmes Branch of the Dept of Education and these are based solely on the operation of Recreation Programmes and part-time staff; and to a very limited degree, there is some assistance there for maintenance of recreation facilities. Now in a small



municipality- a small rural municipality, these mean quite a lot; in other words the growth of our municipalities- post-war- and with the development of the metropolitan areas, the amount of dollars now is insignificant. The municipalities now in Ontario of over 200,000 population, they receive a maximum of \$11,000 a year.

MR BECKETT: For what purpose?

MR DALZELL: This is for recreation only.

MR BECKETT: Would you define what recreation is?
what do you mean by recreation?

MR DALZELL: Recreation programs.

MR BECKETT: Are they defined in the Act?

MR DALZELL: Yes they are defined in the Programmes Act- the Community Programmes Act under the Dept of Education and these are recreation programs that are acceptable to the Director of the Community Programmes Branch- the ones he considers are conducted on the basis of learn and leadership and so on.... qualified leadership.

MR BECKETT: And he determines the program?

MR DALZELL: That's correct. And the \$11,000...

MR SINGER: Every now and then, he decides they should have this or that and these come up once a year and we had enough to get \$100,000.

MR DALZELL: There's a very definite dollar limit in this particular Act because of...again referring to my own municipality.... in the year 1961, because the population of the municipality officially was not over 200,000 people, we received only \$8,000; and \$8,000 out of a million dollar budget is pretty insignificant, and I feel this is only due once again because they require streamlining and being brought up to date the same as the grants for education. The grants for parks under the....

MR BECKETT: Excuse me are you through with recreation now?

MR DALZELL: Well I was just going to discuss the Grants-in-Aid...what is available for recreation programs.

MR MORROW: Community Centres.

MR DALZELL: They are but the present legislation

doesn't refer to them as such.

MR SINGER: They make a grant to the building, and this is the program, through the Department of Agriculture.

MR BECKETT: What is this?

MR DALZELL: We call it programming, hiring of staff buying of supplies, operation.

MR BECKETT: Well then the capital grants have nothing to do with operation?

MR DALZELL: No. The grants, Sir, we receive under the Community Centres Act through the Dept of Agriculture; these are not based on...these are not recurring grants-these are based on a one shot-25,000 up to a maximum dollars per unit; or per unit of construction. If for instance, if you had a park that was large enough to have a marina unit, swimming pool and an athletic field, you could get \$15,000 at that particular location, \$5,000 for each.

MR SINGER: You have to set up several groups to run this?

MR DALZELL: Yes, very simply the Council have to name the....

MR SINGER: The same people.

MR DALZELL: Yes and give them power; that's right.

MR EVANS: Community Centre Board? (yes)

MR MORROW: Can one Board, though, run the whole thing?

MR SINGER: It can be the same people- in theory- but different committees.

MR DALZELL: Actually, Mr Chairman, it's a little more flexible. In Scarborough, we named the same Board for everything, because our organization was peculiar to Scarborough. We've got all the parks and recreation matters under the jurisdiction of a commission; so we just named the members of the commission because they control it anyway....

MR SINGER: You had to have a separate bylaw for the different services but using the same people.

MR DALZELL: With one qualification, that's right, Sir, we can name a Board and you can take several geographical locat-

ions and make them part of the bylaw and they are the Board for all these areas.

MR SINGER: You have an independent commission not... Council, not members of Council.

MR DALZELL: That's right; it's a Recreation and Parks Commission appointed by Council.

MR BECKETT: Under what authority?

MR DALZELL: Initially under the authority of the Community Programmes Branch and the Dept of Education.

MR MORROW: We have one in Ottawa, Mr Chairman.

MR SINGER: But no statute.

MR MORROW: In Ottawa, it's the Parks and Recreation Committee of Council. They are then supported by many satellite committees throughout the City who are also appointed and recognized; these are lay members working to assist the Committee of Council.

MR SINGER: Mr Chairman, did anybody ever try to sue the Scarborough Commission?

MR BECKETT: They'd be thrown out of court.

MR SINGER: I would say it might be very interesting to sue a Commission that has no legal right to exist.

MR BECKETT: I don't think you would sue them or any Commission. (chit chat re Hydro Commission etc) Statutory agent, determined by the case of the City of Bala Public Utilities Commission, City of Niagara Falls Public Utilities Commission- read your Journal- the name is Henry Landis, 26 pages- he says that any Hydro Commission cannot own land, nor can they own personal property; and their insurance policies must be made payable to the municipality.

MR SINGER: After all, there are a lot of illegal operations in this province. Then how can North York Hydro expropriate?

MR BECKETT: No, they have no power to expropriate- none whatever.

MR SINGER: Well the Hydro Commission certainly expropriated when I was on it and nobody challenged our right to do it. We appeared before various authorities to determine the amount of comp-

ensation.

MR BECKETT: These cases were upheld by the Appeal Court. Never sue any Commission. Mr Dalzell, how many different grants do you get?

MR DALZELL: Two types only, one through the Community Programmes Branch from the Dept of Education which is a recurring grant which you can get year after year based on your operating costs.

MR BECKETT: How much is that one? Is that the one of \$11,000 for populations of 200,000 and over?

MR DALZELL: That's right; I can't quote you all the varying degrees for the various municipalities. But take the case of Scarborough Township, the maximum for 1962 would be \$11,000. The other grants to the Community Centres from the Dept of Agriculture- these are based on developmental costs, and the expression, Community Centre can be one of many things; it can mean a swimming pool; it can mean an athletic field; it can mean an outdoor skating rink or an arena?

MR BECKETT: What about the pools in the schools?

MR DALZELL: I have a note here on the schools- where swimming pools are built in conjunction with Boards of Education, in a High School, the facilities created and developed on land owned by the Board of Education; and what we have been attempting to do is to secure a grant allowance because the swimming pool is a community centre; but because it's built on land that is not owned by the municipality it's owned by the Board of Education, it makes it ineligible for a Grant-in-Aid, so I propose we include a clause whereby the municipalities are building pools with their Boards of Education where this may be considered as a community centre, consider it eligible for a grant.

MR BECKETT: How many would you have?

MR DALZELL: Well we have two, one on the drafting table now- North York, five; and there are many being booted across the province.

MR BECKETT: And they do not get a grant?

MR EVANS: There are no grants in auditoriums.

MR DALZELL: The school auditorium?

MR MORROW: We get grants for our school auditoriums.

MR BECKETT: What about rinks in the school grounds? If we build in the parks we get a grant? (right) What if we build in the school grounds, do we get a grant?

MR DALZELL No. The property has to be owned by the municipality.

MR BECKETT: Could it be leased by the School Board?

MR MORROW: I think it's got to be owned.

MR BECKETT: How could we provide so it could work much simpler?

MR TAYLOR: Mr Chairman, I'd say that under the British Columbia schedule, the local municipalities have the powers to set up different commissions, a Parks Commission, Recreation Commission, a Civic Properties Commission, and in that way the power is then vested in the commission to work in their field under the Municipal Act.

MR BECKETT: There isn't any reason why parks and recreation couldn't be set up under our Municipal Act.

MR TAYLOR: Under the Municipal Act with provision for these matters....

MR BECKETT: And then you bring under one head, Mr Dalzell, and what would that do? All your grants under one head?

MR DALZELL: I think I mentioned earlier there are two possibilities, one is under Municipal Affairs and one under Lands and Forests—that would be my own particular recommendation because of the nature of the business being handled by these departments. In Parks and Recreation there are many personnel already in the Province of Ontario, that the Department of Lands and Forests have not this knowledge.

MR MORROW: Particularly in Municipal Affairs, there is this rather technical knowledge of municipal matters.

MR DALZELL: This is the point that I made; this is what you have to weigh against..is it sufficient for the Department to know enough about the municipal ramifications to offset the technical knowhow?

MR MORROW: Then again there's many municipalities

that havent had anything to do with Lands & Forests, but they all have had something to do with Municipal Affairs. Lands & Forests dont come into the picture too much with regard to Parks and Recreation; they dont have the overall coverage and Lands & Forests dont usually have local personnel like the Municipal Affairs people.

MR BECKETT: Well would you suggest then that there should be a bylaw to set up a proper Board or Commission.

MR DALZELL: I would make it as a very strong recommendation that somewhere in the Provincial legislation, that there be formal legislation to permit the municipality to appoint Parks and Recreation Board or Commission; this then would make the municipality completely legal, as Mr Singer suggested. We have a Commission appointed but not really under any legislation. The Council of the municipality did it.

MR BECKETT: And you dont think they would prepare a budget- is that as far as you go?

MR DALZELL: No, they would prepare a budget- all the treasury work is done by the Treasury Department; Council in appropriates X number of dollars to it and the Commission decides how it is to be spent. The accounting, treasury work is done by the Municipal Treasury Department.

MR SINGER: What Council grants may or may not have any relation to the budget- it is nothing more than the advice that this group has given to Council.

MR DALZELL: Yes, that's right. The Commission recommends to Council what the program the Parks and Recreation shall be..

MR BECKETT: But you dont get the money.

MR DALZELL: That's right; we get an appropriation for the year which you live within.

MR SINGER: How about staff? Is it municipal staff or is it provincial staff or commission staff?

MR DALZELL: Municipal staff that is completely managed by the normal Personnel Department.

MR SINGER: Hired and fired by the Scarborough



Personnel Officer. (yes)

MR BECKETT: And working within the budget.

MR DALZELL: That's correct. There is one big factor there in doing it that way, and that is then the municipality that operates on that basis, always has an exact costing of what these services the public. When somebody asks, what did Parks and Recreation cost last year, you can name it. The municipal council will always know what these services cost the public. Now as it is done where you have the other various provincial departments, so then you have costs in other various operations and you don't then have to go around trying to tie up all the loose ends, and say: Well this is what the Parks and Recreation cost last year. In some cases, these departments may be overlapped. To use Etobicoke as maybe the other extreme, where they have three separate groups to handle nothing but swimming pools.

MR BECKETT: Do they handle the swimming pools in schools too?

MR DALZELL: No. (chit chat re schools)

MR SINGER:but the Council did the pools not the School Board. We gave the School Board a \$150,000 pool....

MR BECKETT: Under agreement?

MR SINGER: Yes. The School Board has it till 4 o'clock and the Council takes over after 4 o'clock.

MR MORROW: All these frills for education were initiated by North York.

MR BECKETT: Do you have any other point there that you think would simplify the operation.

MR DALZELL: No I don't think I have any specific points, Mr Chairman, but to summarize, I think though that the operation of the municipal parks and recreation services certainly could be simplified if it were to be operated under one provincial department.

MR BECKETT: And get all your grants from one department.

MR DALZELL: Correct, grants and assistance. When I say assistance, there are services that are available to a community -you can call in professional services, say from the Community Programmes

Branch of the Dept of Education if we wanted an expert on crafts for a given period; and if we wanted someone to come from the Dept of Agriculture to tell us about a soil condition, they would send somebody. So the services are not completely in dollar and cents. But it is a very difficult operation to operate with the various departments as it is now. With the advent of the the Parks and Recreation services are more and more being accepted, it would certainly appear to me that the whole operation should be streamlined and simplified along with the increase in the dollars available to make these more acceptable to the public.

MR SINGER: Is there any particular advantage, do you think, in having a commission type of set up rather than a Committee of Council?

MR DALZELL: One advantage as I see it is as the municipality is growing apace, and there are many pieces of business to be dealt with, the affairs of Parks and Recreation are time consuming; when it is done by an outside group, an autonomous group, appointed by Council, they have the time to give to it; whereas when it is done by a Committee of Council- Councils these days, certainly in the metropolitan areas are concerned with many items of business; so this is one of the advantages of doing it by an outside group.

MR SINGER: But isn't everything this commission does reviewed by Council, either as a whole or by a committee of Council?

MR BECKETT: Not exactly- not their operations.

MR DALZELL: Only...I have to refer to my own municipality, Mr Singer, there are many things that are subject to Council's concurrence; and there are many things that emanate from Commission meetings that go to Council for their approval. But the normal day in day out items are not; because of this budget appropriation, they are authorized within the Commission; but if something different comes along, such as a pool in the school where there is \$100,000 debenture fund, then invariably there is agreement of what shall or shall not be. And this in fact is so. There are advantages in having a Committee of Council too as opposed to having a Commission, because then the Council

members become closer to the picture, and so they become better informed, and I think this is important too. If the commission gets too far away from Council; if they're not aware of the problems, they don't understand them and can't judge as well; so there are pros and cons here.

MR SINGER: Of course the items of expenditure would have to be approved by Council in their money by-laws, wouldn't they?

MR BECKETT: When they make up their budget?

MR SINGER: No, in the course of every week when they pass the money bylaws to pay the bills. If you incur a liability for 7 lawnmowers, then Council has to approve and pass the bill.

MR DALZELL: We use a very simple municipal procedure; we use exactly the same purchasing procedure that the Works Dept would use. It would originate and so on and the Purchasing Dept would order and so on and.....

MR SINGER: Yes, but somewhere along the line a by-law authorizing the payment by the Treasurer of the lawnmowers would have to be moved by Council, so that Council could, if it wanted to, say to authorize six instead of seven. (chit chat re procedure)

MR DALZELL: I don't think the Council of Scarborough uses that technique, Mr Singer. I haven't seen by-laws go through that way; the only time I've seen them go through is early in the year before the tax rate is struck, the Treasurer needs authority to draw up the accounts and at that time there is Council action, but I haven't seen it for the rest of the year. The Treasurer has authority to pay within the various respective budgets of the departments....

MR SINGER: I think you are wrong-nobody may say anything- they may go through very pro formula; but I think they're compelled to have some sort of money bylaw which the Treasurer will bring forward; he's got to have authority by bylaw to make these payments.

MR DALZELL: Oh yes, I know how they do it now. A bylaw is passed to enable the various municipal officials to carry out their responsibilities as approved by Council.

MR TAYLOR: I think that is a general bylaw to instruct and authorize the appropriate officials to take the appropri-

ate action.

MR SINGER: But there must be in the mechanics somewhere, probably without any fuss- but there must be bylaws passed by Council to pay the bills.

MR TAYLOR: I suppose if it is within the budget, there is no fuss. (pro and con re procedures)

MR BECKETT: Are there any more questions from the Members of the Committee? Have you any other suggestions, Mr Dalzell?

MR DALZELL: No, I dont think so, Mr Chairman. I think the time you have given me to discuss this is encouraging, because I feel there is a great deal of room for streamlining and simplifying this.

MR MORROW: This is pretty well along the line of your own thinking - you havent talked this over with any other Parks Commission or Committee out of town? Or other municipalities?

MR DALZELL: No, I havent.

MR BECKETT: Well thank you very much, Mr Dalzell for coming before the Committee. We will give it our consideration.

MR DALZELL: Thank you, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-THIRD MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT

AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 JULY 5th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

H.E. Manning, Q.C.
 G.W. Robinette, Q.C.
 L.G. O'Connor, Q.C.
 D.G. Simpson
 J.M. Blackwell
 G. Wilkinson
 R.E. Lynett
 R.M. Day
 W.R. Howard
 A. Early
 F.W. Hurst

PRESENTATION:

BRIEF - THE GAS AND PETROLEUM ASSOCIATION OF ONTARIO

THE GAS AND PETROLEUM ASSOCIATION OF ONTARIO

HOLLIS E BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, we now have a quorum; Mr Manning would you like to come up here and any members you want to bring with you. Mr Manning would you like to introduce all your delegation to the Members of the Committee.

MR MANNING: Thank you, Mr Chairman. There are sitting here with me, Gentlemen, Mr L.G. O'Connor, Q.C. of Chatham, Ontario, who is the Solicitor for the Union Gas Co of Canada Ltd; and beside him is Mr George W. Robinette, Q.C., who is in the Law Department of Imperial Oil Ltd. Then sitting down in the body of the meeting, and starting at the left is Mr D.G. Simpson, who is Comptroller of Trans-Canada Pipe Lines Ltd; Mr J.M. Blackwell, who is the Manager of the Municipal Tax Dept, Trans-Canada Pipe Lines Ltd; then Mr George Wilkinson, who is the Special Asst to the Vice-President and Treasurer of the Consumers' Gas Co; Mr Warren Hurst, who is the Vice-President and Treasurer of the Consumers' Gas Co; Mr W.R. Howard, who is the Secretary of the Northern Ontario Natural Gas Co Ltd; Mr R.E. Lynett, who is in the Property Taxes, Municipal Section of the Imperial Oil Ltd; Mr R.M. Day, who is with the Union Gas Co, Supervisor Property Tax Department, and Mr Early of the Consumers' Gas Co.

MR BECKETT: Now, Mr Manning, you may proceed any way you wish.

MR MANNING: Well, Gentlemen, I think this Brief has been prepared with a great deal of care and it is very concise, so there is no excessive wording in any part of it, and it might be best if I read it and expanded on it- a few odd things where some explanation or a further statement might be desirable. (reads Brief) "This Brief is presented.....Natural Gas Co Ltd." (end of page 1)

MR BECKETT: Just there, this 199 individual members, are they private?

MR MANNING: Oh I think so; they arent engaged dir-

ectly in the operation of pipe lines, but they are members of the Association. The Association has individual members as well as corporate members. (continues, page 2, line 1) "The taxation problem..... some common problems." Now Schedule A gives the 1960 pipelines assessments and the 1961 taxes paid. Now the Union Gas Co group pay \$1,151,691 and the other companies of course pay a substantial amount, but they are not as large. You haven't any figure in there for Imperial Oil, because it's the only one represented here that is not carrying natural or artificial gas. (continues, page 3, line 1) "Transmission Pipelines All.....1960, Chapter 23." Now Schedule B immediately follows Schedule A, if you'd care to turn to it. It has become quite apparent that the rates set out in this section are most generous to the municipalities involved, and in some cases have produced gross inequities to some of the member companies. That I can speak about with some knowledge and feeling because I had to do with some litigation in connection with it. (continues, page 3, para 2) "Taxation resultingare as follows." (page 4, end of Para 2) May I volunteer some observations of my own in addition to those in the Brief. The only way in which a person who is saddled with a statutory fixed amount of assessment, can attain some equality of treatment, is to appeal each individual assessment, where he can hope to satisfy the tribunal that the assessment is too low. Now if the whole level of the municipality is low, for instance if you look at the provincial equalization tables, you'll discover that in some municipalities, the ratio is somewhere about 30% of the assessable value; and you'll find that the pipeline companies are assessed at something rather more than 100% of the value prescribed in the provincial manual. The only way you can, within the limits of the Assessment Act, achieve something is to appeal everything you feel is less than 100% of the standard of value chosen. Now this is completely unworkable if you have several hundred assessments.

MR BECKETT: Where would the appellant get his material to do this?

MR MANNING: Oh, he might be able to make inspections; he could go to the Field Assessment Sheets of the Assessor, if the Ass-

essor kept records, based on those field assessment sheets, the valuation should not have been what the assessor put in the rolls; but he would have a lot of difficulty, just as there is a lot of difficulty in the equalization scheme.

MR BECKETT: He couldn't go on their property though..

MR MANNING: Not without their permission.

MR MORROW: Do they have to have permission to appeal?

MR MANNING: Oh no. I suppose what could happen, if it was the general desire if possible to establish the facts, it would be to make a direct inspection. I've never known the Court of Revision to do that; the Ontario Municipal Board does do that; but the whole machinery is extremely cumbersome. I could tell you about one township, for instance, in Northern Ontario, where Trans-Canada Pipe Line pays over one-third of all the taxes; where the Provincial equalization data show that the assessments of the municipality generally is about 30% of the 1940 scale; and where there is some 500 assessments, and the Company has been doing a great deal of inspecting- side walk inspection mostly- and came to the conclusion that some 289 out of the 500 assessments were so obviously too low that appeals were justified. Now to hand over to me the mere routine of the 289 assessments is an impossible task; and with it you found as you were almost certain to find that at the Court of Revision level, you got no assistance at all because local sentiment ran high against the matter; you went to the District Court Judge, and you were likely to find the District Court Judge unsympathetic; and then you're confronted with the Municipal Board.

MR BECKETT: Mr Manning who sat on the Court of Revision?

MR MANNING: Oh, they were members of Council- I think practically all from Council.

MR SINGER: How did you do before the Municipal Board?

MR MANNING: We didn't go that far.

MR THOMAS: Were you discouraged?

MR MANNING: No, we didn't go that far in this part-

icular township, because although the township had, prior to the year 1959, I think it was or 1960, no bylaw for the return of the assessment roll prior to the statutory date, which was October 1st; unknown to the Company, the Council passed a bylaw early in July providing for the return of the roll on or before the 20th of August; and on the 22nd of August, an inquiry made at the Clerk's Office as to the assessment position, did not reveal that there had been a bylaw passed. They showed what they called an assessment roll- I challenged that too- but imagine the difficulty of getting 289 appeals launched not later than the 5th of September on a roll of that sort. Well it was assumed there was no bylaw, and it wasn't until the 6th of September that it was discovered there was a bylaw, and the Clerk announced that he wouldn't receive any appeals at all. And nobody else in the whole township appealed. Now I don't want to take your time telling you all about my grief in this. One other thing we discovered there was no assessment roll proper at all; they had a quire about that thick with some 600-700 appealed assessment sheets in it arranged in alphabetical order so you couldn't tell what part...the one you were looking at was assessed for; you had to go to an elaborate index and ask the Clerk... oh well it took quite a long time to sort out the thing. Well we noticed also that there was no identificational receipt for the binder- no assessor's affidavit, and when the affidavit was produced, dated 18th of September, it didn't identify the sheets at all. So they might have juggled the sheets around between the time the binder was first handed to the Clerk and when the affidavit was sworn. Anyway, appeals were launched- they were refused by the Court of Revision on the ground they were too late; the District Court refused them on the ground they were too late. We took a stated case to the Court of Appeal- it was impossible to get the District Court Judge to state the case in terms that were adequate, so the Court of Appeal threw out the appeal of the stated case because of the technical limitation of the question of one paragraph in a long narrative of what the facts were. Now that's still sub judice, and I haven't any right to make any further comment.

MR BECKETT:

It's not settled yet?

MR MANNING:

No, it's not settled yet; maybe nothing

further will come of it, or something may; but that's an illustration...

MR SINGER: Are you taking an appeal to the Supreme Court of Canada?

MR MANNING: We'd have to get leave, and it's so highly technical because it's only a question of whether we have started out to appeal our 289 assessments too late. And the resultant problems in this area may make it desirable not to attempt to go further - I don't know.

MR MORROW: The natives showed quite a bit of ingenuity, I would say.

MR MANNING: Oh they showed a great deal of ingenuity; and had there been any doubt at all, the whole acceleration of the date of the return of the roll was designed to beat the anticipated appeals. Now it doesn't seem to be quite the way the game ought to be played, but that's the way it was played. (continues, page 4, para 2, last line) "Some of the difficulties.....Schedule C attached hereto." You'll see here a number of examples- here you see Example A, assessment for 1961 of all the properties other than pipelines, \$30,400; assessment of the pipeline company, \$142,633. The pipeline company tax then, \$4,706; and the total municipality tax is \$5,710. The pipeline company is paying over 82% of the total taxes of the municipality. There are others, I won't try to read them, but just notice the percentages, 43.876% of the total municipal levy in B; C is 96.937%...

MR BECKETT: Mr Manning where is this?

MR MANNING: I can't give you this-maybe someone can. Have you got one of those...can you give it Mr Blackwell, Please?

MR BLACKWELL: They are municipalities in Northern Ontario; I'm sorry I can't give the names.

MR MANNING: Will you provide that particular name to the Committee; you will make a note? (yes) D at 38.681% and even D at 11½%; F at 25.373%; G, 61.92% and H, 25.870%. Now obviously of course, those are abnormal; but at the same time they are so startlingly abnormal, they invite a sharp comment as to what it should be so.

MR BECKETT: You notice in F a mill rate of 103;

and H is 144.

MR BLACKWELL: I can give you the name of Example H, it's the Township of North Hemsworth; and I believe Example F is Coleman-I'm not quite sure of that.

MR MORROW: What district is that?

MRS ROWAN: North Hemsworth is in Parry Sound and Coleman is in Temiskaming.

MR MANNING: (continues, page 5, last para) "While the above problems....of pipelines." Now if you take for instance a standard transmission pipeline and if you will we'll turn to Schedule D, and we find that in British Columbia you find the per foot charge is

MR BECKETT: Just a moment, we have a copy of the Act- 30 inches is \$64,400 per mile.

MR MANNING: Yes, \$12.20 a foot. And in Alberta..

MR BECKETT: Is that the highest rate?

MR MANNING: That's the highest. Alberta is \$3.94 Saskatchewan, rather surprisingly is only \$1.82; Manitoba is \$1.17 and Ontario is \$4.03; and you see, of course the mileage equivalents carried out in the table.

MR MORROW: Has terrain got anything to do with this; British Columbia, of course, has a very difficult terrain and Northern Ontario has as well.

MR MANNING: I don't know whether that has anything to do with it.

MR O'CONNOR: There's a very substantial difference in the basic approach to it in British Columbia, and while the rates as they appear here are considerably higher, the practical application to it is not.

MR BECKETT: Just while you're on this, have you any figures for pipelines outside of Canada? (no) I was thinking of that pipeline in California. We were there the night of the appropriation, but they weren't then able to give us how it was going to be assessed.

MR MANNING: (continues, page 6, para 2) "The sched-

ule shows.....British Columbia 50% of 1959 value" (Page 6, end of para 5) If I might insert a comment, I think any study of the...MacLean Building reports statistics which give the ratio of increased building costs would reveal that 60% of 1946 value is not any higher than two-thirds of 1940-it might even be a little bit lower. (continues, page 6, para 6) "The pipeline rates.....rated carrying capacity." (page 7, line 3).

MR BECKETT: It would be the company that would give that report. (yes) The assessor wouldnt know whether the pipeline was full capacity or half; he would have to take the report from the company.

MR MANNING: That's true but of course one should realize that the basic data upon which that report is made is easily verified.

MR BECKETT: There was one in Texas that....

MR MANNING: No, your annual returns would verify that; and it would be impossible to falsify the records. Then you see utilities are then taxed on 75% of the resulting assessment so that you get a further deduction from the statutory rate. (continues, page 7, para 2) "We believe that.... 60.93." (end of page 7) Now, you notice that the average millrate in British Columbia is 31.85 as against 60.93 in Ontario. Then I come to the next Section which deals with distribution. (reads, page 8, para 1) "This section of the Brief deals with..... hereto as Schedule E" Now we turn to E and that's the one that was involved in the appeal to the Supreme Court of Canada of the Sault Ste Marie and Algoma Steel (continues, Schedule E) "The property of..... with section 35." (end of (4)) That seems to be slightly divergent from (3). And then (5) structures, superstructures, substructures, rails ties, poles and wires of such a transportation system. We're not transportation systems, so that doesn't operate in respect to pipelines. Now one other thing that is quite interesting, about 60 years ago, up to about 60 years ago, pipelines, railway lines, and all the utilities that were extended throughout the municipal corporation were assessed upon what used to be called the scrap iron principle; and you only valued so much of the property of the company

which was in a particular ward at its salvage value, and not at its value as part of the assets of a going concern. And there were several attempts made which the courts did not accept as effective to introduce the concept of value as part of the going concern. And of course the going concern idea in those days applied only to things...take the Toronto Railway Co, the Consumers' Gas Co in Toronto-these are typical examples. It didnt apply over any large number of municipalities; and finally, this going concern idea was effectively introduced as value in 1904 with the revision of that year. But down through this rapid expansion which followed the Second World War, no real difficulty was experienced by any of the companies, with that requirement that the value be as part of the going concern. Since then there have been great difficulties in this area. (continues, page 8, para 2, line 2) "Subsection 3 of section 40..... Schedule F." And you will notice how widely the rates of assessment in townships that are adjoining- the first example given of two adjoining townships quoted in one as 2"-17¢ in the one-28¢ in the adjoining one; 4", 55¢ in the one and 75¢ in the other; 6" pipeline, 98¢ and \$1.10; 8" pipeline, \$1.24 and \$1.40. You will notice in each case that the finest diameter is 8", that being that by the time you get to the distribution centre, the on it is relatively much smaller than on the transmission lines. We come to the second example, and you have a town and a township adjoining each other. And we have 2" in the town-28¢ and 17¢ in the township; 4", 70¢ in the town, 55¢ in the township; 6", \$1.15 in the town and 98¢ in the township; 8", \$1.55 in the town and \$1.24 in the township. Those are supposedly on the same basis of value.

MR SINGER: What are the equalization factors?

MR MANNING: There are none, Mr Singer, unfortunately.

That is one of the things we will come to in the Brief.

MR SINGER: Now I thought that when they determined provincial grants, someone in the Dept of Municipal Affairs wrote in an equalization factor.

MR MANNING: Oh there is, there is an equalization factor- I see what you mean; but that does not apply to this assessment.

that only applies for the purposes of ...

MR SINGER: To get a better idea of whether these are equitable or inequitable, if I saw the equalization factor between the municipalities...

MR BECKETT: You mean the equalization factor they have for County purposes?

MR SINGER: No, the Provincial grant...

MR MANNING: I know what you have in mind; for example if the township equalization factor showed the township was assessed on a much lower scale, then it would put the township on some kind of equity.

MR SINGER: Yes, that's right. But without that information, it is hard to tell whether...

MR MANNING: That might well be; but the only point I'm making is that if the formula for assessing calls for...

MR SINGER: Actual value.

MR MANNING: Yes. The actual value determines an integral part of a whole, then there couldnt be any equalization factor.

MR SINGER: Well you are saying no more than the statute says there should be actual value in all assessments, and it isnt there.

MR MANNING: Well be that so, it doesnt belong to this part of the discussion.

MR SINGER: Then equalization doesnt mean anything.

MR MANNING: Not a very great deal but they do show, having in mind the fact, and this might be more defined, there are county equalizations involved in the situation too, and it wouldnt necessarily follow that the provincial was the one adopted as the equalization. It gets very complicated.

MR BECKETT: The County equalization doesnt affect the percentages in the various municipalities in the counties.

MR MANNING: That's right.

MR THOMAS: There is a little difference between the equalization factor operating in the county than the spot checks taken by the Dept of Municipal Affairs for other purposes.

MR BECKETT: We wouldnt know that.

MR THOMAS: No, we wouldnt.

MR MANNING: I rather fancy if there has been any great amount of equalization, it would be much more thorough than the spot checks done by the Dept of Municipal Affairs. But you put your finger on the problem; there's no doubt of that. (continues, page 8, para 3) "Information obtained from the.....Section 41." There are some supplemental bits of information that have been given to me the Consumers' Gas Co and by the Solicitors of the Union Gas Co which I should like to use in amplifying what is stated in the Brief on that subject; but I think we'll carry on at the moment. (continues, page 8, para 4) "While there is a..... in Schedule G." You'll see in every municipality that's dealt in, and the factor in respect of the level of assessment in relation to the 1940 values as found by the Dept of Municipal Affairs is set out in the left hand column, and the pipelines in each of these villages, towns, cities are assessed at 100% of the values established in the Province of Ontario by provincial mandate. Here again it seems to be very serious discrimination; because looking at the example Village A, the pipeline is paying on a valuation 50% more taxes than it should be paying; in example B, it is paying 33% more.

MR BECKETT: You say "Level of assessment % of 1940 values as found by the Municipal Affairs?"

MR MANNING: That's the provincial equalization factor; it's the only public data we have to go on.

MR THOMAS: Oh Mr Chairman, would it be true to say the value is placed on pipelines in Section 41 would be the actual value at that time. One would presuppose that by the 100% figure.

MR MANNING: If you go to the latest provincial manual, I think you will find that the 1940 scale of values pertaining to the pipeline is about 20% below the statutory scale in Section 41; in other words, if you were to go through the various categories say of farming, you'll find for instance certain types of building construction, 100% of the 1940 scale at so many dollars; and you'll find referring to the same year, a scale of valuation of pipelines- a

per foot basis; if you take the scale of valuation of pipelines, that will be related to the same standard of cost; and then look at the statute, you'll find the statute is about 20% higher-the statutory rate; but it's stated here in this Brief as if it were 100%. But I hope those examples are sufficiently startling because it is a very simple thing to see how much higher the rate of taxation imposed upon pipelines is, in relation to the same standard of valuation, than the rate of taxation on the general public in the municipality. I know we could find any number of other cases, not always as striking as those set out in Schedule G. (continues, page 9, line 1) "As a result of the....for pipeline distribution lines." (page 9, end para 3)

MR SINGER: Mr Manning, you've told us in the first five pages how unsatisfactory the....

MR MANNING: No, I think the boxes here... another look so to speak...

MR SINGER: Arent you getting yourself into a box?

MR MANNING: No, Sir, (laughter)..... no my friend, the box (laughter drowned out retort) Now may I read you from two letters that were sent to me, at my request, outlining some of the problems. This letter comes from the Consumers' Gas Co- I wont read the whole of it. It was written on the 28th of June. "Because of the difficulties in carrying out numerous appeals in numerous municipalities at the same time (you remember Consumers' operates all over Ontario) the appeals were brought forward against four Ontario County municipalities, and the appeals in the other counties were held in abeyance until a decision had been reached in Ontario County. In Ontario County, the County Judge heard a lengthy appeal and brought i down what appeared to be a compromise decision. His decision does not lay down any method of arriving at an assessment of distribution lines. Appeals from these decisions were taken to the Ontario Municipal Board, and heard in the spring of this year. The basis of the county appeal was that the most favourable construction costs, after eliminating items which were claimed would not add value, such things as boring and rock excavations, did not justify an assessment as high as those

used by the assessor. The assessors relied on estimates of cost by an engineer in their defence. The Municipal Board in a verbal statement, said that it did not agree with the company's cost approach, nor with the assessor's approach in this matter. They were prepared to expect an appeal based on the value of the system in each municipality as an integral part of the entire Consumers' Gas system; but did not, indicate how this ought to be done. Appeals in earlier years have been brought into various municipalities based on a claim that the statutory rate of transmission lines was assessed at a value of today. These were also unsuccessful, since in most cases the court ruled the company had not provided any evidence of actual value." Now I'm going to paraphrase the rest of it. "The Long Branch ruling provides for the assessment of cast iron mains at the rates for the equipment" this is a highly technical subject and it comes about that the cast iron mains that were laid in the old days of distilled gas, were built in such a way that they couldnt take pressures of, oh I think it's about 4 lbs to the sq. inch; whereas the steel mains that are put in for natural gas will take many times that pressure, and of course the transmission lines will carry hundreds of lbs to the sq. inch. And it had to be worked out in some areas, that the existing cast iron mains, which represented a very large part of the distribution system in the older parts of Toronto, could be utilized for natural gas; so there had to be all kinds of elaborate reductions, and this not being enough, the gas had to be liquified or what do you call it- moisturized- something or something of the sort, because it comes in from the transmission lines in a dry state, and in a dry state, if put into a cast iron system, it would very rapidly dry out the packing, and with gas leaking, there would be a disastrous series of explosions. Well, in the newer areas of distribution, steel distributing pipes are laid; they can be laid much closer to the surface; they carry a much higher pressure of gas, and therefore involve a much smaller diameter of pipe; and they do the job at a fraction of the cost of the cast iron mains...achieve.

MR BECKETT:

How much does it cost to lay them?

MR MANNING:

Oh the cost of the iron is much greater.

MR THOMAS: The cost of the cast iron is greater?

MR MANNING: Oh you have that much greater diameter of pipe to carry the same load of gas. Now in the Long Branch decision, a different gas company appealed against the assessment on cast iron, and was successful in persuading the Municipal Board that cast iron mains should not be assessed at any higher figure than the equivalent figure for steel mains of a similar capacity; which meant that a 4" pipe made of cast iron would be assessed at no more than a 2" main of steel; and there were some depreciation figures allowed on top of that.

MR THOMAS: Would you have any cast iron pipe 2" in diameter? They are usually 5" or more.

MR MANNING: I doubt if there are- I don't remember the facts- I was the Counsel- but it does run in my mind that the capacity of a steel pipe 2" is very close to that of a cast iron of 6". For purposes of appeal, the Board didn't go quite that far, if I remember. Following these appeals, Metropolitan Toronto and the various municipalities accepted the Long Branch ruling without further appeals, and claimed the rate for steel mains went on higher. Several appeals were brought before the County Judge and the Ontario Municipal Board in an attempt to find a proper value for these steel mains, when once again the cost of construction was the basis of appeal by both the company and Metropolitan Toronto. None of these appeals reached any conclusion. After very lengthy negotiations between the Metropolitan Toronto Assessment Department, we arrived at an agreed figure for our distributional assessment, and these figures have been accepted by the courts and are now used. In a way we hope that the Ontario Municipal Board would make a ruling establishing some sort of principle of planning the actual value of the distribution line. However, in no case, did a County Judge or the Municipal Board lay down a ruling. This puts the company in a very difficult position when assessors place a value on pipeline which is not acceptable to the company. The company has the onus of proving what the actual value is, yet does not know, and has not been able to find out any acceptable method of arriving at such a value. For this reason, we feel very strongly that distribution lines

must be assessed in a manner similar to a transmission line." Now may I comment on this. How can one determine the value of all the transmission and distribution lines of a system that exists for literally hundreds of miles across Ontario, as to the piece in each municipality? Because first of all, you have to determine an average and then you would have to break it down as to transmission lines and distribution lines; and then you would have to find the particular figure for the line in that particular municipality and I would judge it to be a nearly impossible thing to follow out the direction of Section 41. Well then if we have followed out the direction of Section 41, then you cant apply Section 35 because you cant find a satisfactory base for it and you have to bear in mind the cost of a pipeline. Now how can this be done? Depending on what period you have to take up, what services you have to bypass, what rock you've got to blast and so on. You realize that cost doesnt mean anything as to a particular unit. Now that's a letter from Consumers' Gas Co. Now may I also read you a letter from Mr O'Connor setting out the experience of the Union Gas Co and he draws attention to the statutory provisions; and then so the personal flavour wont be lost on the Committee, "As a lawyer, you will have heard that it is impossible to arrive at the actual value of the distribution system in a municipality under Section 35, and equally impossible under Section 40, subsection 3 of this Act to assess separately the portion in each municipality, as the intregal part of the whole. When the statute was amended a few years ago, to write into the Act statutory figures for the assessment of transmission pipelines, a Committee from the Gas & Petroleum Association of Ontario then requested and recommended that there should be no distinction in transmission lines and distribution lines for purposes of assessment; but the same figure should apply to distribution lines as well. Opposition to this was spearheaded by Metropolitan Toronto, which at that time would have suffered a substantial loss in assessment on their distribution lines of Consumers' Gas Co; and as a result, the powers that be decided to compromise the matter, and set the statutory rates for transmission lines, and then by providing in their distribution system, they

should be assessed on the same basis as everybody else in the municipality. What I told you in the Long Branch case is past history now, but it is very close to an equation in the Metropolitan area. The then committee of the Association went on record with the Dept at that time that we doubted very much that this would work out in this attempt at assessing distribution systems as there would be no basis for finality or uniformity, and this has proven exactly true. At the moment, there is an impasse in connection with assessments of distribution systems. As you pointed out yesterday, it was quite certain that too much emphasis is being placed on the cost structure. Be that as it may, the Ontario Municipal Board makes it virtually impossible for the utility to succeed in an appeal by saying that the onus is on the utility to establish actual value under Section 35, and then again to establish the actual value of the proportion of the individual unit in the municipality, and as it is an impossibility, the Ontario Municipal Board has taken the position that if the appellant utility cannot satisfy the onus of its position, and therefore it cannot succeed in an appeal. At the same time, the assessor who takes any type of cost figures, and comes in with a totally unrealistic assessment figure, does not have to defend it. The net result of the above is that the only remedy is by legislative action, and the opinion of those of us who represent the distribution utilities, the proper means of achieving this is to prescribe that the statutory assessment rate shall apply to both transmission and distribution. You will recall that it was mentioned yesterday that there is some concern over the fact that the lawmakers might buy the idea of applying the same statutory rate to distribution, but in the process of doing so, might increase all rates. The answer to this would appear to be the clear evidence in the Brief that already the rates used in Ontario are substantially higher than in all other jurisdictions in Canada." And that statement, you will observe, doesn't note the peculiarity of British Columbia situation- but the British Columbia situation is taken care of by some discounting factor, and arrives at a tax result that is justified....

MR SINGER:

I think you'd be on better ground if

you said the rates produce higher taxes.

MR MANNING: That might be, but this, you remember, is one lawyer to another, no doubt Mr O'Connor was thinking largely of the other provinces, not thinking of British Columbia.

MR BECKETT: What is the average size of a distribution pipe?

MR HURST: Average size in distribution, 4" and 6", and that's cast iron. The cast iron pipeline is primarily for cooking and light water heating only. The pipelines now being laid are primarily for heating, not for cooking and water heating primarily. So that I think that the 4" and 6" range would be about the same for cast iron and for steel.

MR MANNING: (continues letter) "It should be borne in mind further that this business requires no increase in public services or public expense." Then Mr O'Connor gives some data as to the Union Gas Company which might be interesting. " Union Gas covers a franchise area extending between Windsor and Sarnia on the west, Guelph and Dunnville on the east and Goderich and Owen Sound on the north. United Gas Ltd covers the City of Hamilton and the adjacent area of Dundas, Burlington and . The two companies combined operate a distribution system that is distinct from the inter-connecting Canada Transmission Pipelines in 181 municipalities. Of these 181 municipalities, 133 have set up the distribution lines with the figures described in subsection 5 of Section 41. Years ago, it was quite clear that those figures applied only to transmission lines. The reason that we, the 133 municipalities follow those figures is that it provides a clearly established table which leaves no room for doubt or lack of uniformity. 40 further municipalities in which distribution lines are located are assessed, are higher than the figures of Section 41 of the Act; roughly 60, of these follow the figures of the 1954 manual sponsored by the Dept of Municipal Affairs, and the remaining 40, work on figures all their own which in fact are higher again than those in the 1954 departmental manual. The remaining 8 municipalities using our distribution lines, making up the total of 181, are assessed at rates

lower than those in Section 41 of the Act, and they generally follow the figures of the 1950 manual. From the above, you will see that first of all, Union system covers a great multitude of municipalities, and that because of this fact, it is impossible to arrive at a definite figure under the language of the present statute. The assessors and company generally resort to other sources which are based upon a rule or table. It is apparent therefore that a rule or table is generally used and is preferable to the indefinite position of interpreting this Act, but it is also important there should be one fixed rule or table which would apply to all. There is, finally, one further aspect to the problem, namely that they restrict two paragraphs of the manual to fit the present day situation where municipalities are drifting away from the table of either the manual or Section 41 of the statute, and are adopting cost figures of their own which cannot be successfully attacked because of the present language of the statute. In the last year, the two largest municipalities on Union system, London and Windsor, have taken this approach, and set up their own figures and raised them substantially higher, and this is just the beginning of the usual slow moving result. We understand that the distribution assessment problem, as set forth above, which is the experience of the Union Gas Co. of Canada Ltd and ourselves as distributors, is common to the distribution facilities, such as the Consumers' Gas Co and the Northern Ontario Natural Gas Co Ltd" This ends my paraphrasing of the letters. Now back to the Brief on Page 9. (continues, page 9, last para) "In modern pipeline systems.....as Schedule H." Now I feel I have taken up a great deal of time, but may I add some comments of my own. I think it's often lost to sight that these utilities are after all rendering a public service the same as the Hydro Electric Power Commission of Ontario and the service of the steam railways; both of those, as far as I can find in the Assessment Act enjoy a special position in respect that the steam railway companies don't pay on the steel rail tracks, the wires, the poles and the bridges the actual value. They pay at the average value of the land used...the land in the vicinity of their lines; and they pay on their station buildings and hotels and

things like that on another formula which is comparable to the one that other utilities are set but the lines etc are assessed on a basis of special privilege; and both the power commission and the railways occupy far more services and do far more to interfere with the ordinary coming and going of the public than the pipe lines do. I think it's fair to bear that in mind; and it is also fair to bear in mind that in some way or other, people seem to when they're a company to be a fair target for severe criticism and for more onerous taxation. The real ~~problem~~ arises from the concept that to allocate to each local municipality a portion of an overall graduation of a going concern. And to arrive at that, there is no satisfactory formula. I think in opening this subject, I said the concept of such a formula has gradually got into the Assessment Act sometime about sixty years ago, and down to the post-war period, it didn't create any serious difficulty because none of the utilities except Union, extended over any large number of municipalities; and it hadn't begun to suffer from the pressure for increased taxation. To date this is different because utilities cover a wide area and it has become difficult, and since natural gas became available- and natural gas, as you know, is brought great distances...well then we come to the recommendations to the Committee, and if I may I'd like to make a few comments of my own. It is set out on page 14 of the Brief. (continues, page 14, line 1) "This Association respectfully submits..... in this Brief." (page 14, line 5)

MR SINGER: Can I stop you there. Mechanically how are you going to do that?

MR MANNING: I don't know. I appreciate it would be an enormous task.

MR SINGER: There's not enough qualified people available to do it.

MR MANNING: I think that is true; and even in the municipalities who have had years of employment of assessors, it's been a very great task to bring them up to an equal footing. I remember being in municipalities where it is something like two weeks in a year there is employment, and they had a County Assessor for some years, and

they hadn't arrived at a uniform basis at all.

MR BECKETT: Wouldn't it vary from municipality to municipality. The manual couldn't cover

MR MANNING: That seems to be the concept of the Dept. That is a question but not one I think is suitable for discussion here at all.

MR MORROW: It's for the Dept. to adapt.

MR MANNING: That I suppose is so; there are questions in some counties - special county manuals...but looking at them from the point of view of arriving at some quality of fairness of taxation, I've been coming around steadily with the view that as long as there is prosperity in the country, and there are very few derelict buildings, and I make that reservation very explicit, the manual approach to value of improvements on property gets nearer to equity and fairness than any other approach I know of. I could criticize some detailed applications, but granted that your allowances for what you might call built-in obsolescence, depreciation, wear and tear are adequate, the manual approach, I think, undoubtedly gives you as fair a taxation as you would want. And with that I pass to the next recommendation: (continues, page 9, (b) "That until a..... of Ontario" (page 14, end) Now if I may I should like to add a few comments. The concept here is that the transmission and distribution lines should be treated in the same way with a correction factor for cast iron pipe. I should like to offer this for your consideration, cost is not the true standard of the particular foot or mile of what has been termed to be an integrated system. In cost, it may have by us the most valuable part of the system through country that is easy to work, and offers no cost problem at all. I'm thinking of your transmission lines with large diameters which are the key to the whole system. Then you may have distribution lines which in some particular area, are simply not worth the cost of putting them into the ground, but because you have a franchise, you must supply this service, and you must put in lines, and you must pay the cost; and what that cost is really is lost in your general experience. You wouldn't buy that foot of pipe; you wouldn't put it there,

if you didnt have to because of your franchise; so the cost of the particular unit is, in my way of looking at it, insignificant and not a proper basis of arriving at a basis to base your tax. Imagine, for instance, what would be the taxation of the railways if some municipality decided to do this on some portion of property at the particular while may have cost hundreds of thousands of dollars, against an average of what, \$10,000 or something like that. If cost were the basis, it could be ruinous when you have to have an integrated system. Well then the next important thing, and this seems to me to be the sore spot in all the assessment experience, how do you get an equation between the assessment of taxation of your pipeline, and the assessment of taxation of the rest of the municipality? The Brief here recommends that the ideal solution is a uniform assessment all over Ontario, and I confess that I am sceptical as to whether it will ever come about- if so it's a long way away. Well there are so many inter-personal frictions, the inertia and the mere lack, as Mr Singer pointed out, of qualified personnel; but apart from that, there are so many individual convictions of honest men, and you can never get them reconciled; and if you have a cumbersome system of assessment, they wont be able to do it. Then I have some reservations about the provincial equalization factor; that doesnt mean that it isnt consciously arrived at, but it may not be arrived at on a sufficiently wide base. So I am going to offer this suggestion to the Committee, because they have been kind enough to say they dont object to my doing it; that that should be the equivalent of, shall I say, the county equalization by-law, and if I or the municipality or the county is dis-satisfied with that, there could be an equalization hearing. There wouldnt be very many; and an equalization hearing could be conducted in exactly the same pattern as an equalization hearing in a county; it wouldnt be the complicated affair you have in the county; you'd only have two sets of ^{people} appeals.

MR MORROW: Who'd have to justify the facts?

MR MANNING: Ah, well I suppose the basic onus in every appeal rests on the appellant. If it was the municipality that appealed the onus would be on them and they'd have to justify it. If

it was the county, they'd have to justify it.

MR SINGER: Are you suggesting, Mr Manning, in that that the equalization factor be mandatorily changed...change the assessments in the county?

MR MANNING: No, no, I dont suggest that; it's a basis of allocation. The county system doesnt work in the same way as the local municipal rate works. Now for example if the provincial equalization factor were 45% for a particular township, then the assessment of the rest of the municipality would be graded up at 100% of the assessment of the gas companies; or alternatively the gas companies could be brought down to 45%.

MR SINGER: Oh, I see. Would there be any merit in the other suggestion...perhaps...of course this is really talking uniform assessment. If your equalization factors are correctly determined - and there's some doubt about that- then would there be any merit in saying that once those equaliztion factors have been determined, that all assessments within that municipality be retaken?

MR MANNING: Well I think the administration there is being perhaps obsolete, but can I give you this...

MR BECKETT: One way of doing that is perhaps an IBM machine- work by an IBM machine or something.

MR SINGER: But this would establish a uniform assessment.

MR MANNING: This might have some political difficulty, and with that factor, I dont believe you could work it that way with the local people. I had a case not long ago where a township had a revaluation made and there was an uproar in the township, and the Board of Revision, after listening to strong protests, and without any duly constituted appeal at all, decided to reduce and instructed the Clerk accordingly, all assessments in the township under protest. And we learned about that about a month or so after it had been done, and we began an action; and so far we've been unsuccessful; a judge held that Section 88 stoped us from attacking the illegal interference with the assessments- I wont go into that now- but Section 88 is certainly not the bulwark. Under subsection 6 of Section 72, the Court of Re-

vision is prohibited from altering any assessment if there isn't an appeal.

MR SINGER: What did they do? Apply Section 88?

MR MANNING: They simply decided without any discussion at all except in policy as to considering anything as to actual value at all; I was very careful to exclude the possibility that they would take the view of the real value. They decided that this would be a good way of assuaging the public generally.

MR SINGER: What about 88? What is 88?

MR MORROW: That defines the time in which you can bring an action. It's a time limit.

MR MANNING: I'll read 88. No action or other proceedings except or other proceedings by or on behalf of a municipality for collection of arrears of taxes can be brought in any court.....
....except within 60 days after the day on which the roll is required by law to be returned or within 60 days after the return of the roll in case the roll has not been returned in the time fixed for that purpose....I've got some other submissions that I want to make privately to this Committee on that subject.

MR SINGER: I would ask you when you're through, Mr Manning, with your very great experience in this field that if you would like to make some submissions on the Assessment Act...

MR MANNING: There are a number I'd like to make.

MR BECKETT: This afternoon, if Mr Manning could come back...we're having the Assessors here.

MR SINGER: While we've got him here, we should take advantage of his experience.

MR BECKETT: I don't think this would be the proper time.

MR MANNING: There are just a couple of questions I would like to bring to the Committee to enable them to see what kind of an impossible situation in which one of these companies finds itself when it has to get some kind of toning up of the rest of the Assessment Roll to bring it to the same level as its own; otherwise, it's going to be real discrimination; and the only way that is pres-

ently possible under the Assessment Act is to appeal each single assessment, and that's just...well I told you about the 289 appeals we had, and it just doesnt work. You'd be a whole year at that job. Now if this recommendation proposed by the Association were adopted, I do think it would be appropriate to graft on to it the suggestion I have made, that is basically the municipality or the pipeline company if dissatisfied might appeal for an equalization, and there could be a tribunal set up in the same way it has been set up under the equalization ^{division} revision, and it need not be anything like the present because you only have two parties to thrash it out, and you'd only discuss the assessment of one municipality and not the assessment of the whole of local municipalities in the county organization. And you'd have also one failure static, that is in the assessment of the pipeline- you dont have that on an equalization basis. Those are the submissions, Gentlemen, now if there are any questions that anyone wanted to ask, I daresay there are many of them I wouldnt be able to answer, but I'll answer what I can.

MR BECKETT: Before we do that Mr Manning, are there any other members of the delegation who would like to make any comments?

MR BLACKWELL: Mr Chairman, on this matter of Provincial assessment, in the Provinces of Manitoba, Saskatchewan and Alberta in that regard, although their population is very much less than Ontario, they have or are in the process of setting up a detailed system, and if it would be of any assistance to the Committee, I would be pleased to supply you with the manuals that are in use in these Provinces now.

MR BECKETT: That would be very useful, Mr Blackwell; we would appreciate that. Mr Manning, are there any serious problems that you know of in placing transmission and distributions lines on the basis? And in other jurisdictions?

MR MANNING: Well I cant answer that yes or no. I dont know. I havent made a study of any legislation on this subject in the other provinces.

MR SINGER: Do you know anything about that apparently the pipelines dont want it now; did they want it at some time?

MR MANNING: No, they didnt. I think if you recall back they had proposed valuation of distribution lines, but the vigorous representation of Metropolitan Toronto brought about a rejection of the proposal in regard to distribution mains, and since that time, distribution mains ...the result of the Long Branch decision has by common consent been brought the metropolitan area to virtually the same level.

MR BECKETT: I remember before the Committee...our Municipal Law Committee, dealing with the matter of Section 41, and that's why Toronto then did then oppose it; they had figured what their loss would be if they didnt levy it.

MR SINGLER: 57 or 58 I think it was.

MR HURST: Mr Chairman, May I point out that the final negotiations of Metropolitan Toronto were carried out in the spring of this year and it is quite possible that a year ago you had figures on a lot of the pipe increases; it is my understanding at this time that they have achieved on the transmission uniform rates and have not decreased that figure in the ; one other observation I would like to make is that in our experience the assessors getting together to discuss this, they find it very difficult to compare a building in one city with a building in another city; pipeline is one thing that happens to be the same in one city as in another city. And I think it makes a very fertile field for assessment that assessors discuss with one another how you're going to put a value on that.

MR BECKETT: Then, Mr Hurst, is Metropolitan Toronto Assessment Department following the Long Branch decision.

MR HURST: Yes, Metropolitan Toronto is following the Long Branch decision.

MR O'CONNOR: Mr Chairman, if I might say after that, I think basically the situation right at the present time is that there was, well, a compromise arrived at in the way of legislative change I think that everyone recognized at that time that something must be done for the purpose of providing a new formula; and at that particular time it was decided that...well we'll go as far as can be reasonably

done and establish uniformity on transmission lines; the other we'll try on an experimental basis. I was a member of the Association Committee at that time and we told them at that time that we had very considerable reservations whether this would work out or not; and it has certainly been our experience, Gentlemen, that the distribution system assessment has not worked out; and we are feeling very definitely that we would not get our heads in a box, as Mr Singer mentioned there, if transmission and distribution were placed on the same level so long as this means adjustment, as Mr Manning has suggested, of the Section. I may say also a word about the problem referred to at the time by the Hon. Mr Goodfellow that they thought this was found money. Now I am not opposed to hard money or soft money (laughter and jokes)

MR MORROW: What about these recommendations to Section 41 as suggested, Mr. Chairman

MR BECKETT: Well if Mr Manning would be available at a later date, we would be very pleased.

MR MANNING: I wouldn't be able to offer anything very useful on that because I only had a few minutes to glance at it this morning....

MR BECKETT: Maybe later on (discussion re date)
We have a date available, Mrs Rowan?

MRS ROWAN: July 13th at 10.30 in the morning- that's a Friday.

MR BECKETT: Personally I think it would be very useful with your experience and knowledge of the Assessment Act. We've got a very considerable task and we want to pick everybody's brains.

MR MANNING: I'm quite content to put my brains on the table for what they're worth; I had in mind that what I personally thought, I would write because there are some views that I would personally like to put in front of you and urge upon the Committee, so that in my opinion at least, we could get some fairness and some equality into assessment.

MR BECKETT: We have very many Briefs dealing with this subject.

MR BECKETT: Well I would like to make myself avail-

able to the Committee...you say July 13th? (further discussion re date)
All right.

MR BECKETT: Thank you very much. Are there any questions that the Members of the Committee would like to ask Mr Manning or any of the members of his delegation? Well thank you Mr Manning; it has been very interesting to go over your Brief and to hear your comments and your very interesting suggestions. I don't know whether you have read our Terms of Reference (no) Then while you're all here, I'll ask Mrs Rowan to read them so you will realize the significance of our task.

MRS ROWAN: "ordered that a Select Committee of this House be appointed to inquire into and review the Municipal Act of the Province and the related Acts, including the Assessment Act and the Department of Municipal Affairs Act, the Local Improvement Act, the Ontario Municipal Board Act, the Planning Act and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and Regulations and make such recommendations....

MR BECKETT: Those three words...just those three words; please read them again Mrs Rowan.

MRS ROWAN: "for the purpose of modernizing, consolidating and simplifying such Acts and Regulations and to make such recommendations as may be necessary for their improvement!" (chit chat)

MR MANNING: I don't recall a year in the last 70 years when there hasn't been some amendments to the Assessment Act, and indeed I can't recall a year when there hasn't been an amendment to the Municipal Act; and the amendments are sometimes worse than the original Act.

MR BECKETT: And apart from that, look at the words "related Acts" that are in our terms of reference. If you realize the number of related Acts- close to 100 isn't it, Mrs Rowan? Well we appreciate your assistance and if you think of any other ideas, let us have them. Thank you very much.

MR MANNING: Thank you, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
July 5th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS. H. G. ROWAN

Secretary

MRS. E. EATON

Asst. Secretary

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Solicitor

MEMBERS:

George T. Gordon
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APPEARANCE:

Mr John Van Rassel
Mr R.G. Wilson
Mr G. L. Thompson
Mr G.D. Hepditch
Mr R.P. Quance
Mr Fred H. Cade
Mr Jack Letner

PRESENTATION:

BRIEF - THE ASSOCIATION OF ASSESSING OFFICERS OF ONTARIO

THE ASSOCIATION OF ASSESSING OFFICERS OF ONTARIOHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT:

Well, Gentlemen, we'll ask Mr Van Rassel to come up and sit here and then he can introduce the members to the Committee, and if there is anybody you would like to bring up with you, we'd be glad to have them.

MR VAN RASSEL:

Thank you, Mr Chairman. The spokesman for our group will be Mr Ralph Wilson, who is a permanent member of our Research Committee, and Mr Layton Thompson, and would you please stand? Mr Fred Cade, and Dick Quance and Gordon Hepditch, and Mr Jack Letner, who is representing Mr Jack Coombs who is ill.

MR SINGER:

These gentlemen are all assessors?

MR VAN RASSEL:

That is right. I would like Mr Wilson to come up and speak to you gentlemen on this.

MR BECKETT:

Very well. (Mr Wilson and Mr Thompson come to Chairman's table) All right, Mr Wilson, you may proceed.

MR WILSON:

Mr Chairman, Gentlemen, I think the Brief has been in your hands for some period of time-probably all of you have read it, and it seems unnecessary at this particular time to go through this item by item. I might say the Brief was written last year prior to the new legislation coming in, in 1962, and for that reason, there are particular parts of it that have been answered at the present time by the new legislation. We would like to comment on one or two of the Sections of the Brief as they refer to particular Sections of the Assessment Act; and in the main, I think a goodly portion of the Brief to you, as you no doubt have noticed, has been concerning Business Assessment; and in this particular field, we have suggested in the final analysis, the Business Assessment be confined to four particular percentages, namely, 30%, 50%, 60% and 75%. We feel the use of these is much easier for the assessor to apply and to be able to distinguish when he is applying the Assessment Act to his respective municipality. I might also say that after the writing of this particular Act, there is one basic Business Assessment that we feel has not been properly answered at the present

time, and that is the assessment for business of those areas of shopping centres or plazas that are used for parking purposes. At the present time, the courts adjudicated that the parking areas used in connection with plazas are not assessable for business assessment. We feel this is incorrect and that any individual store or retail merchant who sets up his own parking area is, at the present time, liable for business assessment. We feel this should either be wiped out for everybody or that everybody should be assessed for parking privileges.

MR BECKETT: Just there then, Mr Wilson, you say that in other cases isnt that particular lot for that particular store is a convenience for the people and restricted to the people who shop in that particular store?

MR WILSON: That is quite true, Sir, but then the parking over a large plaza area, when it's broken down in particular, it's for each individual store; but we cannot break it down, we realize that. However all the stores are utilizing the parking service, and what better way to do that than on the space that they occupy; but the courts of course have adjudicated against that.

MR BECKETT: So you would ask the individual, and they're mostly tenants, to pay for the privilege of people parking a car all day long and taking the subway down town; parking there to go to Lodge at night and to church on Sunday- you'd ask the tenants to pay for that.

MR WILSON: I wouldnt say, Sir, that these parking lots are used for uses you have mentioned particularly; at least the parking lots in my particular area jurisdiction. But I still feel that these are part and parcel of the business that's being carried on and strictly assessable, if the others are.

MR BECKETT: The others are assessable because they are for their own individual store.

MR WILSON: That's true, Sir, but here you have a very confined acreage so far as the occupancy of the buildings are concerned in these shopping plazas, and you have a true expanse of parking. Similarly with these small merchants, who has his own parking area, now today he requires more space than he occupies by his store if he is going

to provide proper parking; so it is as broad as it is long.

MR MORROW: Should it be placed upon the land owner -and perhaps that parking is already reflected in the tenant's rent?

MR WILSON: I think it is reflected in the tenant's rent although we havent been able to establish that to our satisfaction at any rate, and possibly this is one of the angles that should be investigated. I might say that Greater Hamilton Shopping Plaza, in that particular instance the assessor has attacked it from both angles, and he has been unsuccessful in either.

MR BECKETT: Would the assessor in Hamilton place a higher assessment on the land- all the land-in the shopping centre than he would on an ordinary store?

MR WILSON: No, in this particular instance, Sir, I believe, and I'm only recalling from what I know about it, in this particular instance he applied a square foot rate on all the land, that is the land used for stores and for parking areas in this particular area. I was just making mention of that, Sir, in regard to business assessment...

MR SINGER: Before you leave the business assessment, 30-50-60-75, wholesalers and manufacturers - 60%; generally retailers -30% who are the 50% and the 75%?

MR WILSON: The 50% would be F and G, that would be Department Stores, Retail Stores with more than five branches of the retail trade. You will note we have removed several of those- retail coal, wood and lumber dealers, we feel should be a retail merchant; we have also removed the publisher of a newspaper or rather a printer and publisher, and we feel he should be treated the same as a publisher. G, of course is the professional category and we suggest that they should remain the same at 50%.

MR SINGER: Have you investigated the possibility of striking an even rate across the board? 30% or 40%?

MR WILSON: In regard to this, Mr Chairman, we investigated this very thoroughly; we checked with the Provinces of Manitoba and Alberta, and their method of arriving at level tax in regard to business assessment, and we felt that our own Act, with some changes, was as good as any we could find and in fact, more so. We feel that if these

per-centages had been brought up to date from that time, 1903, there wouldnt have been any difficulty. The Act in regard to business, of course, was written in 1903 and hasnt been changed to any measurable extent since then...hasnt been updated.

MR SINGER: How do you justify any differentiation now between the categories?

MR WILSON: Mainly, let's say, it relates to the nature of the business and the profits that can be assumed flow from this business. I think, we, as individuals, recognize that there are some businesses that are more profitable than others; certainly some businesses require a great deal more space than others. I could illustrate best, I imagine, by the retail merchant who normally requires quite a large amount of space to display his goods; while similarly the doctor or the lawyer requires a very small amount of space in which to carry on his business. And if you had the same percentage for both, very definitely there wouldnt be a reasonable differentiation....

MR MORROW: What about the distillery at 150% - he has to have a large space for warehousing.

MR WILSON: Yes, but there again of course, we have suggested that the liquor manufacturer be reduced from 150% down to 60% the same as all manufacturers.

MR MORROW: All manufacturers?

MR WILSON: Yes, all manufacturers.

MR BECKETT: Let me say, on your proposed assessment of parking areas in shopping plazas, a man who does a big volume, he doesnt pay on the volume that he does at all.

MR WILSON: No, he would, normally speaking, most of the shops that are in a shopping plaza, are of a retail nature and the majority of them would pay 30%; the only ones who wouldnt have would be the loan companies, the banks or something like that. But the remainder of the stores would be of a retail nature and would pay 30% depending on the amount of space they occupy. I'll grant you that a retail merchant may have a higher mark-up in one particular line than another.

MR SINGER: What would you call a drug store?

MR WILSON: A drug store, in the main, would be a retail store.

MR SINGER: A retail store is 30%, but Morgan's across the way becomes a Department Store and this is 50%.

MR WILSON: That's right.

MR BECKETT: But getting back to these parking plazas, Mr Wilson, and the parking lots of chain stores, the whole lot could be used by people who are not using these stores; and yet on the other hand, the grocery store's lot is used by its own customers. In plazas, sometimes you can't get in to park at all.

MR WILSON: Well I went to ours this morning- a shopping plaza, and I had no difficulty at all getting a parking spot.

MR BECKETT: The other could happen.

MR WILSON: Yes, it could happen; but of course all the space in shopping plaza is predicated by an actual counting of the spaces that they require in that particular area....

MR THOMAS: That is true.

MR WILSON: This is all mathematically worked out, and they know what they require and they set up accordingly. I would visualize there would be no shopping plaza that would be completely filled, or very few of them that I've ever heard of, that would be completely filled with cars so that nobody could get in to park.

MR BECKETT: I could have taken you to two on Monday.

MR WILSON: That must have been in the Toronto area here when....

MR SINGER: Thursday, Friday or Saturday in Toronto, I could take you to a dozen.

MR BECKETT: Going on Monday to Thornecliffe, up Yonge Street, there wasn't a parking place, and that was a holiday.

MR THOMAS: Maybe that was when the Shriners were assembled. (laughter)

MR WILSON: I couldn't answer that now; it's 21 years since I've lived in Toronto.

MR SINGER: What do you do with the mail order

stores- Simpson's or Eaton's as a 10 or 12 or 14 foot store, yet perhaps does a greater volume of business than anything else at the shopping centre?

MR WILSON: Personally, I would assess them as 50%- this is a personal opinion- it is not the opinion of this Brief- but in my own personal opinion, they should be at 50%; they're drawing in the smaller towns- outside of Toronto now I'm talking about- I come from the County of Welland, and there I know that Simpson's and Eaton's do a tremendous volume of business in comparison with the rest of the merchants in the town of Welland; and we can only assess them for the amount of space they occupy.

MR THOMAS: What about the mail order business?
They do more business than the leading store in the town.

MR WILSON: Yes, but this is a personal opinion.

MR SINGER: What you're trying to do though is by juggling these percentages is to levy some sort of an income tax.

MR WILSON: We investigated the income aspect and we felt it wasn't feasible. For one thing it would make of the assessors auditors who would have to go on examining books in order to arrive at a figure; and we felt that the job entailed far too much for an assessor to do...to perform along with the other duties he has to administer.

MR THOMAS: It would be quite a job on gross receipts, wouldn't it?

MR WILSON: We have investigated this; we were open minded when we started off, and we finally came to the answer that our own Assessment Act was the best criterion for value for business assessment of any of the Provinces.

MR SINGER: Would your task not be made relatively simple if you just had one percentage?

MR WILSON: I again express a personal opinion here, I don't think it would be fair to all types of business, particularly the financial houses-I'm thinking of the banks.

MR BECKETT: What would be the result if you did as your report, 30%, 50%, 60% and 75% in the matter of taxation?

MR WILSON: We feel, Sir, that this would be more

or less....would leave things on a more even keel as far as taxation is concerned, that is the revenue that would accrue from the assessment this way as compared to the revenue that would accrue on the present reading of the Act; we would find it would level off, for instance those retail merchants we suggested 30%. Now at the present time we have different basis for retail merchants depending upon the size of the municipality; and this, we feel, is a bad thing. We can have adjoining municipalities on a particular street, one with a small population where they assess business for retail merchants at 35%, and right across the road, they have a larger population, they may be down as low as 25% and these may be two exactly similar businesses, one at 25% and one at 35%, only because there is a different number of people in the municipalities; this, we feel, is wrong.

MR BECKETT: Mr Wilson, we have compiled the businesses according to the percentages, and Mrs Rowan will tell you the revenue from them.

MRS ROWAN: Maybe you'd like a little history; we circularized all the municipalities asking them for statistics; we got around 400 replies, 340 usable replies, and from these we found that on the 100 basis, that the tax levy was 0.1; that's of the total report; 10% basis, 0.2; 50% of 30%, 0.2; 25%, 18.5; 30%, 2.6; 35%, 2.1; 50%, 16.1; 60%, 43.3; 75%, 15.7; 150%, 1.1. And there were a small number of assessments that didnt seem to fall into any of the brackets properly, and they produced 0.1.

MR WILSON: And this is from the revenue of the Province...

MRS ROWAN: Well I got the number of assessments, and I got the total assessment on which provincial assessment was based; I got the amount of business assessment and the amount of tax levy. Now this is the tax levy that I've given, the business tax levy.

MR BECKETT: The greatest percentage is the 60%.

MR WILSON: Yes, and as we suggest that with this as the main category, there would be more in the manufacturing category than there is at the present time; and if the 150% and the 100% were moved down to the 60% category...

MRS ROWAN: Less percentage of tax wouldnt it be?

MR WILSON: There would be a lesser amount in that

particular one but that would probably be offset with your retail merchants now paying 25% where all would be paying 30%.

MR BECKETT: You'd move more up than would come down?

MR WILSON: I wouldnt be prepared to say that, Sir; I havent made a study of that, whether the municipalities would lose...

MR MORROW: That's the thing, Mr Chairman, whether the municipalities would lose....

MR WILSON: Of course the business tax in the first instance was put into effect because they were losing something out and...

MR BECKETT: And you just cant take it away now.

MR WILSON: We're not suggesting taking it away, Sir, but very definitely, I think the time has come when we have all these different people coming in, particularly the wholesale merchant- he is being penalized.

MR THOMAS: You feel there should be some measure of equality? (yes) And I agree.

MR SINGER: Have you considered business taxation of apartment houses and rooming houses?

MR WILSON: Yes, Sir, in fact I would like to see it in effect; probably it would do away with some of these problems that we're having in regard to basis of taxes; we might be able to recover a little bit in this particular way. I believe they should be in the 30%

MR SINGER: Certainly it is a business the same as anything else.

MR WILSON: This is again a personal opinion; I dont think we have been polled on that, although there are some that agree.

MR BECKETT: Are you then opposed to the question of rebates?

MR WILSON: Again personally, Sir, I'm opposed to all tax rebates.

MR BECKETT: I suppose you are opposed to all matters of exemptions?

MR WILSON: Yes , Sir, I am. It's quite an easy thing for one to say they're opposed to all kinds of exemptions and we all

know it's something that's going to be very difficult to get rid of, and I don't think we'll get rid of them; but the question was asked me, am I opposed to them...(laughter)

MR BECKETT: You're very frank about it. Well Mr Wilson, you mentioned some of the other provinces; did you mention British Columbia?

MR WILSON: No, Sir, I didn't.

MR BECKETT: Mr Hepditch, did you want to say something?

MR HEPDITCH: I know Mr Wilson is our spokesman, Mr Chairman, but I'd like to make one personal comment about this rebate. First of all, it seems to me, Sir, that we have two forms of taxation, and we give a rebate. Our taxation is predicated on ad valorem taxation, the actual value; and this method of rebating taxes depends on that which obtains in the United Kingdom; it was introduced into the Act in the 20's or thereabout and then as regulations and then as a guide...this... if we assess on income, then I believe there is some basis for rebate. But we don't assess...well it's in part...we arrive at actual value - Section 35- and there is consideration given. I nevertheless feel that there should not be any rebate because of the base of our taxation.

MR SINGER: If you say you're not assessing on income, then how can you arbitrarily say let's put people in 30%, 50%, 60%, 75%- categories- they should all be the same.

MR HEPDITCH: Well I wasn't talking about business assessment, Mr Singer, I...

MR SINGER: Well it's the same thing in principle, isn't it; you say you're opposed to rebates because it has no relation to it.

MR HEPDITCH: Well it has relation but I feel that we...our taxation in Canada is based upon actual value.

MR SINGER: Our real estate tax?

MR HEPDITCH: Yes, our real property value; but in the United Kingdom, it is based upon net annual value and it is because of this reason, this is why they make this...well occupy it as it were- if there is no benefit received, then you get a rebate. But we have to change our thinking, I believe, in Canada if we're going to give rebates...

MR SINGER: I dont disagree with you on this, but when we try to move into the next category, how then can you say arbitrarily that one business should be 30% and another 50%?

MR HEPDITCH: If you ask me personally, I believe that the business assessment is the most iniquitous piece of legislation that you have on your books; because it's based upon no valid assumption; they were valid at one time when we had personal property tax, and we abolished it later and they accepted these empirical percentages that were arrived at by the assessor because of the lack of training and various other causes, and adopted these holus bolus and then they were incorporated in the statutes, and they are here today. I believe myself that the only valid way is to have one level of percentage and then have a sort of Corporation Tax that would be rebated back to the municipalities, but I'm taking the ball away from our Chairman.

MR BECKET: Thank you. To get back, Mr Wilson, we were talking about the Western Provinces- did you get any information from them?

MR WILSON: Yes we did get information from the Provinces of Manitoba and Alberta-you asked me, I believe, Sir, if we had any information from British Columbia; to the best of my knowledge, we have no information from British Columbia.

MR BECKETT: I might say that British Columbia pro- that the municipalities may, whereas our statutes say shall.

MR WILSON: Personally I dont like permissive legislation. Either it's going to be or it isnt going to be- I feel it should be that way. Once you set up permissive legislation, you start the assessor wondering whether he should apply it or not. If it is clear cut, whether it is one way or the other, then there is very little doubt in his mind; he either must assess it or he must not.

MR BECKETT: Or the Council has to pass a by-law.

MR WILSON: Well there again we run into the same problem with the Council; some Councils- a strong Council may pass it; others through local pressure may not. And then municipalities do not treat property the same way, and it will encourage people to go to a particular municipality certainly because of the assessment.

MR BECKETT :

Dont you think the present basis of
way; they dont all assess the same per-

Of course that is one of the suggestions
on one basis in all municipalities.

Now the next comment I would like to make Mr Chairman, is in regard to Section 20, clause 4, on Page 12 of our Brief down at the bottom; and this is in regard to the various columns of the assessment below; we feel these are-of necessity- these must be revised by the Department of Municipal Affairs due to new columns being added and certainly to meet with the requirements of the assessor's knowledge. There is one particular part, subsection 1, clause 4- here at the present time, in both the Assessment Act and the Municipal Act, there is a conflict in regard to Canadian citizenship and British subject. One, that the various School Acts provide now that a Canadian citizen can be elected to a School Board; now this is an addition to this particular Brief, and in the main it is my own thought on this particular item. I do believe that we should be permitted in the Assessment Act to show in the Assessment Roll a definition of Canadian citizenship. At the present time, a British subject is not necessarily a Canadian citizen, and we feel this should be clarified. In the main that is the only addition we wished to make to this Brief that we have submitted to you, and if the Members of this Committee may have additional questions that you would like to ask on any particular phase of our Brief, we will endeavour to answer those- either myself or the members of the committee here today.

I may say we have gone through the Brief

before you appeared in order to get ideas and suggestions. One question I might ask you under Section 41 of the Assessment Act, the Pipe Line, where you have schedules set up for the transmission pipe line, so much per foot. It was suggested just this morning that the distribution lines were assessed differently.

Well I wouldnt doubt that at all, Sir,

we feel at the present time so far as transmission lines are concerned- and this is our own particular feeling, that they are not being assessed in the same manner as other property in the Assessment Act. Here we have

a special type of assessment, in fact a fixed assessment, set on pipe lines and the only other place that I know of now in the Act, the various Acts that we have got on fixed assessments on property, is the Bell Telephone in regard to their percentages that they are assessed....

MR THOMAS: Well that's on transmission lines only, isn't it?

MR WILSON: Yes. Here we have a fixed assessment on a transmission line and we feel after a thorough investigation, that the rates that are being applied there are not in line with the cost of the pipe line being installed; in other words this is not even a cost of the pipe itself, never mind the cost of installation and all the rest- the wrapping and all the rest that's necessary so far as the pipe line is concerned.

MR SINGER: Now are you not concerned in any way with the argument that there is no demands for services; pipe lines don't send children to school or need fire departments or have garbage collection or other municipal services; welfare or...and they attract other industries.

MR WILSON: That may be very true, Sir, but the Assessment Act, Section 35 says that property or land will be assessed at its actual value; why differentiate with one particular industry, such as the pipe line?

MR SINGER: And when you tie your hat to the actual value, you must agree with me that nobody in Ontario sets it at actual value.

MR WILSON: I would say that's one of the things we're most concerned about that we do assess at actual value; at the present time, the assessor, the rate payer, nobody has protection so far as actual value is concerned. The Act states that we should use it and we are using it in the majority of instances in relation to a particular year, that is a particular value. I don't care what that year may be- it could be 1940, it could be 1930; but you can relate that by means of indices to a particular year, and correspondingly bring it up to the present day level or back, whatever way you're approaching it.

MR BECKETT: What percentage do you add...take the year 1940-do you add a percentage?

MR WILSON: Well if you want to bring it up to date, you would use a factor of it, and the factor at the present time is given by MacLean's- again there is a set up on the 1940 level set up for 1935-1939 with a mean average of 100%; and you'd have to co-relate that and get it on the 1940 basis, and you'll find that there is a percentage, I believe of 2.84. And you multiply your assessment by 2.84, you should almost get today's actual value. Now that will vary from municipality to municipality....

MR SINGER: Very substantially.

MR WILSON:on the cost of construction and labour... in the area.

MR SINGER: And depending on which assessor takes which year.

MR WILSON: No sir, I suggest to you that if a cost indice is properly applied, you can well arrive at today's value.

MR THOMPSON: Mr Chairman, if I might just say a word here, I think at one time that many municipalities were assessed at actual value using the '35-'39 as 100%. I think my own municipality we did and at one time it was 75% of 1940 and it was done in 1939. And we were very foolish to leave actual value at that time. At the present moment, re-assessing the whole municipality in order to obtain the same performance twenty years later approximately 75% of present value or actual value from a replacement standpoint alone.

MR WILSON: Mr Chairman, I think the question was in relation to the pipe lines arriving at the distribution line, and I might say that we did at one particular time, make a quite extensive study of it. In my particular case, I come from a pipe producing municipality, the City of Welland; and all the information was obtained, the cost of the pipe and we related the industry back to 1940, and in the majority of instances that is what we are using as our distribution pipe costs and we have a system that has actual value of the 1940 year, if we are now using 1940 for land and buildings in the different municipalities; but even then it is much higher than this figure that you have before you in the assessment for transmission lines; and I think that transmission lines should be

updated, in fact if I remember correctly, at the time this was put into the Act, there were a number of delegations that approached the Private Bills Committee speaking on this, and I was one of the persons in the delegation.

MR THOMAS: Well, Mr Chairman, if Mr Wilson has got those figures in Welland, where they would be very accurate, of course, from the Welland people, on this...on Section 41, you take a 4" and 4½" diameter pipe- it's assessed at 55¢ a foot; how would that compare with your figures that you've got down there?

MR BECKETT: You mean compare them with the distribution set-up?

MR THOMAS: No this is the transmission.

MR BECKETT: Yes but they've got to assess on that basis.

MR THOMAS: Yes, I know, but he said that they were very much lower than the actual cost; and the figures that he got related to 1940 would be much higher than the 55¢ a foot, as the set value.

MR WILSON: The figures are that the pipe costs 10¢ a pound; now all you have to do from that is transpose into what the weight of a foot or feet of pipe is, regardless of what size it is; and this was done. Now I havent got my figures withme here today but Mr Thompson has his in regard to laid pipe per foot and that is for 4" pipe and is \$3.12 a foot.

MR SINGER: That's today's cost?

MR WILSON: This was as of December 31st, 1960.

MR SINGER: Then you reduce that to his municipality or to yours by the factor and bring it down again. (yes) Are you saying that in your opinion generally, this is the way it's done in Ontario?

MR WILSON: No, this is a method that I am using and that several others- several other municipalities have followed the same procedure. Now this is...

MR SINGER: Because they have a Schedule here in this Brief on the Gas Industry- Schedule F where they show that assessments on 4" pipe vary from 55 to 70 to 84 to \$1.24 to 75¢.

MR WILSON: That's distribution? (yes)

MR THOMPSON: Is that installed?

MR SINGER: Yes, this is the assessment; they show half a dozen municipalities.

MR WILSON: Well Township A, for instance is assessing distribution pipe at the same rate as transmission pipe as set out in Assessment Act, and the other four will vary.

MR SINGER: Township C is 70; Township E is 84 and Township G is \$1.24.

MR WILSON: I would be very interested, Sir, in knowing the particular municipalities concerned and probably I could answer the question a little better. You will notice there are four or five that are using 28¢ and 17¢ and they don't vary too much from that point. There are various types of pipe; the others are using the rates in the Manual...in the Act and this at 50.7 and so forth, I would think would be related costs.

MR SINGER: Well they feel that there should be an equitable basis on which they should be treated across the Province and on the face of it, it seems reasonable.

MR MORROW: There seems to be a great lack of uniformity.

MR WILSON: I think there is a lack of uniformity, and I think there should be uniformity; but this could be just as well administered and shown in the Department Manual if they have one rather than have it in the Act. Sure you've got it right in the Act to make a particular type of assessment for one particular type of person; you've got fixed assessments in too; where if you indicated in your Act...in your Manual, there it is-use as a guide, you'd find that there'd be more uniformity using it that way than this way. This, as far as transmission lines, is mandatory; and in my particular county, I have pipe lines running through there, and it is mandatory that I apply this law; I have distribution lines run by private individuals- we are a gas drilling area- private individuals are supplying gas and we also have the subsidiary company of the Consumers' Gas Company, and in our particular municipality, we have all the same rates for this distribution line, but it is higher than it is higher than it is for the transmission line. But we're obligated in the transmission line.

MR SINGER: You would be happy, I presume, to have the Manual made mandatory?

MR WILSON: With a great many revisions, I mean,...

MR SINGER: An up-to-date Manual made mandatory.

MR WILSON: An up-to-date Manual- I would like to see an up-to-date Manual.

MR THOMAS: You'd want this one revised?

MR SINGER: Yes, I don't think there's anybody today defends today's Manual; and if it is possible to produce an up-to-date Manual.

MR WILSON: If it was possible to produce an up-to-date Manual and if we had people that could administer that properly, then I'm all for it.

MR SINGER: This is a very good point that you get into now- how do we get assessors throughout the Province who can administer the Act or the Manual or the law properly?

MR WILSON: In that particular respect, Sir, the assessors have been endeavouring to do something about it themselves; in that in 1954, they started a course of studies- a correspondence course, by the way-three years, at Queen's University. And we have had some 700 who have started on this course, and at the present time, I believe we have 329 graduates. We are still not satisfied in that because they get the academic knowledge, that they automatically get the administrative knowledge; we're not satisfied that they have the practical end and we examine in that particular respect, and we send them out into the field and do the practical assessment, so that we know they have accumulated the knowledge both academically and practically.

MR THOMAS: Do you get any assistance or co-operation from the Department; you say this has been set up since 1954- did you do it entirely on your own or did you get any co-operation from the Department of Municipal Affairs?

MR WILSON: Well I wouldn't say it would be fair to say we didn't get co-operation from the Department- maybe we were negligent ourselves in not asking for more help....

MR SINGER: Are you getting any help today?

MR WILSON: I would say that our present Deputy-

Minister has suggested to us that he would be only too willing to assist us. We are now starting out on an additional two-year course...

MR THOMAS: It's a little late though, isn't it-
1954 to 1962- eight years.

MR BECKETT: What do you mean by assistance?

MR THOMAS: Co-operation and advice. Well you remember the other day...

MR BECKETT: Mr Wilson go ahead.

MR WILSON: Well I would certainly say, Sir, that the Deputy Minister would be only too willing to help us; he has stated that many times. And we have proof of that.

MR HEPDITCH: I might say, Sir, and this is very important, the assessors did this by themselves, without any help from the Department. It was a purely voluntary effort to assist themselves. However I will confirm what my colleague says, Mr Wilson, we are getting support from the Department in the way of encouragement, not financial. We haven't sought financial aid and the Department has been looking kindly at us and at our efforts. We are not satisfied with the efforts, as Mr Wilson has said, because the course was designed by a non-academic person, and it's purely a trade course and we would like to try maybe something towards professionalization...and this is why we feel this course needs to be revised and we would like to have assistance; but we also bear in mind that he who pays the piper calls the tune, and so we didn't proceed too far..this is maybe our thought on it.

MR MORROW: Would you look favourably upon the Department running a course?

MR HEPDITCH: Well,no....

MR MORROW: Provided they could be persuaded to do so.

MR HEPDITCH: Provided the Department were competent to do so. (laughter)

MR BECKETT: Well there's no branch of the Government helping any other profession; they don't help the auditors...

MR HEPDITCH: No, no, no, we don't....

MR BECKETT: Let the assessors stand on their own

fect and this....

MR THOMAS: No, no, Mr Chairman, this is something that the Department should be very very actively engaged in because it's of great interest to them- they were paying grants on this kind of thing.

MR BECKETT: They pay grants towards county assessment- that's nothing...you really cant.... grants towards what, Mr Thomas?

MR THOMAS: To the municipalities based on the assessment rolls and things like that...

MR BECKETT: Oh, I know on that basis, but as far as their profession wanting any grants.....

MR THOMAS: But the government is very greatly interested in these things....

MR BECKETT: The Government is greatly interested in auditors too...

MR THOMAS: Well I know but they give grants on the basis of their calculations in the municipalities for educational purposes..

MR MORROW: May I ask, through you, Mr Chairman, who establishes the breakdown in connection with this course; do the assessors do this or has the university anything..any determining of the content of the course? of the curriculum?

MR WILSON: Well this is called the Institute of Municipal Assessor, and in the first instance, the only funds we received were from the Association of Assessing Officers of Ontario- they were the ones that underwrote our efforts; and at that particular time, we assigned- we thought we should cover certain areas of work, and we set up what we felt was a course of study, and assignments were let out to what we felt were the top men in their particular field. Now in this particular instance, I might say that we went as far abroad as the Province of Manitoba; we had Mr Hardy who was then with the Bureau of Municipal Research; Scott MacKay of the Ontario Municipal World, and many many others- people that we felt were proficient in their particular line. And these, in turn, were edited by other individuals, and we finally got what we felt was a course of studies for a particular year. These were set up at that time- fifteen lessons for the first year of study.

MR MORROW: Who determines when it is a pass or not?

MR WILSON: This is entirely up to the university.

The university appoints the tutors and the markers and the examining Board and they do the final marking.

MR MORROW: But you had a hand in the course of studies.

MR WILSON: We had a hand in the course of studies; some of us wrote some of the papers that were presented to the students; I might say we are continually revising that because of the changes in statutes, and also because of changing conditions. The change in the economy that we're all facing...you gentlemen probably know more about it than I do, but we have to change as it is required. They're updated at all times and we hope the standards are improved. I might say, though, Gentlemen, we're not up here to discuss our Institute; we're here on the Brief and the question was answered that way simply because it was asked how we could improve the calibre of the assessor.

MR SINGER: Well I think this is a most important part because I don't think you can talk about making any set of assessment laws unless you have competent people to administer them. But following on from there, do you believe that it is important, as I do, in having a system of qualification and of government recognition and of government licensing of assessors.

MR WILSON: We have suggested, Sir, in a Resolution that was passed this year by our Association, that the Minister of the Department of Municipal Affairs should in that particular respect, protect the assessor, and possibly in protecting him, he may require even licensing. Now we didn't suggest the licensing; but we do suggest that any man, before he be dismissed from the municipality, that it be by a two-thirds vote of Council, and with the approval of the Minister. We have also suggested that an assessor not be appointed until he has attained the standard required in the Assessor's Course, that is the Institute of Municipal Assessors, and have at least five years experience, either assessing or in some related field before he be given the task of carrying on in a municipality; now in that regard, we've also provided of course the appointment of a man with very little experience, but he must attain those qualifications under a temporary license until...for a period of five years, so he then would require

MR MORROW: You've asked for the protection of the Department of Municipal Affairs- have you something to say on that?

MR HEPDITCH: I'd like to add a few comments to what Mr Wilson has said, Sir. First of all, I suppose that the sincerest form of flattery is imitation; and for the benefit of your Committee, Sir, I would like to inform you that the Province of Nova Scotia adopted the principles that we set down and adapted it to a course for the Province of Nova Scotia; likewise the Province of Alberta through the University of Alberta set up a course; also the Province of Manitoba through the University of Manitoba. These are provincial courses, and at the present time I might say, Sir, I have been asked to meet with some of the Assessor's Association of Quebec to discuss how they could set up a course in the Province of Quebec. The Department of Municipal Affairs is going to underwrite the course in the Province of Quebec. Another point I wanted to make is this...recently I hired an assessor to assist me in the County of Ontario and I followed the usual practice of most Assessment Commissioners, by asking this requirement as a qualification, that he be a member of the Institute, or that he undertake a course of study. Now if you examine ads for assessors today, you will find the most successful jurisdictions...that this is a requisite of employment or a qualification- that they be members or they undertake a course of study.

MR SINGER: This is all very fine when you are talking about municipalities about the size of Guelph, Sudbury, Belleville, or the County of Ontario or the County of Welland or Oxford- you have a thousand municipalities in Ontario all of whom have assessors; what do you do with the 800 odd that can't afford to pay a salary?

MR HEPDITCH: Well this is a difficulty, and I believe that today we should only have full time assessors; and any municipality that can't afford to have a full time assessor should be incorporated into a district and this is the only way you'll get around it; and that the county assessor or some individual should be...if he feels that the municipality is not able to pay, then he should be able to incorporate or ask the Minister- have the Minister incorporate one or more municipalities into an assessment district and then they would have full time competent

assessors....

MR SINGER: Including the 800 odd municipalities.

MR BECKETT: Then you'd be in favour of County Assessors?

MR HEPDITCH: Am I in favour of County Assessors?
Is that a leading question because I am one, Mr Chairman. (laughter)

MR BECKETT: No, no what I mean by that is that you feel it is the same as Lincoln?

MR HEPDITCH: A County Assessment Commission?

MR BECKETT: Yes, that is right.

MR HEPDITCH: Yes, provided that...

MR BECKETT: No, no provided that or this- just...

MR HEPDITCH: I'm in favour of the principle

MR BECKETT: And are you then...the next step in favour of these doing all the towns and cities- the County Commission?

MR HEPDITCH: I believe that the cities...I believe that the time has come when the cities...consider Oshawa as an illustration...I believe that the cities should be a part of the county administration.

MR BECKETT: For assessment purposes?

MR HEPDITCH: Yes, for assessment purposes, and maybe for taxation purposes; I believe that the day has come when we have to have two kinds of counties; we should have metropolitan counties where the cities are a part and contribute to the tax load; and this would also get away from this business we've got of competing for industry...this is all, I believe, that Metropolitan Toronto is, the Metropolitan County of Toronto.

MR THOMAS:up to the County of Ontario for that one when you consider that it cost the City of Oshawa \$140,000 last year for the re-assessment. (chit chat and jokes re Oshawa)

MR WILSON: Mr Chairman, I might say that if you followed the suggestion of Mr Hepditch in regards to including the cities within the county or district or region, regardless of what you call it- I'm not satisfied myself that counties are the final answer. I believe you have regions that should be administered as far as assessment is concerned, that is, drainage areas and so forth should all be considered.

They can become an entity of their own, but it would certainly help or assist the dormitory municipalities that we have, that is the people who are providing the houses for the industrial municipalities who are getting no part of that industrial assessment. I think that is something that should be considered...

MR SINGER: I agree with you on that but how would you arrive at it- would you have to arrive at it as the Act provides now; would you have the unanimous consent of all the municipalities in the county or the region, or should it come arbitrarily from the top?

MR WILSON: I had a note here in respect to the appointment of county assessors, and that note was this, I don't believe this should be an unanimous vote; all other business of county council is carried on by a majority vote- why not this? Why suddenly set up an unanimous vote.

MR MORROW: Mr Wilson, isn't it a two-thirds vote in the municipality required.

MR WILSON: I would be satisfied myself, Sir, with a majority vote if....

MR BECKETT: Mr Wilson that would be hardly fair if the assessed county had ten municipalities and eight of them were small ones and you took a majority vote; it might be all right if for the majority you must have more than 50% of the assessment.

MR WILSON: I hadn't thought of that particular feature and I think it's a good one, Sir. I really do, taking into consideration the assessment of the municipality and weighting the vote; that I think would be a fair and proper way to do it.

MR THOMAS: On the question of the assessor should not be dismissed without the approval of the Minister, how do you feel about that one?

MR WILSON: I agree with that, Sir, because at the present time we have had assessors dismissed because they endeavoured to follow through with the statutes the way they are written; as a result of it some of them had to be changed; but they have endeavoured to follow the statutes and as a result have antagonized some of the individuals, in

fact maybe a whole municipality against them. But they have been doing their job the way the Act was written, and I dont think these men should be dismissed lightly just because they had done that very thing; I think there should be some referee, and I suggest it be the Minister, who has the final say. I dont think these men should be dismissed because of personality if they are doing the job. If they are not doing the job, then certainly, dismiss them; they should be let go.

MR MORROW: There is some thought that the Minister shouldnt be put in that position, Mr Chairman, as refereeing this sort of thing.

MR WILSON: Well that may be true; he may not desire that, and it would be an awkward position, but there should be some means, some referee or Board that the assessor can go to, and we feel this can best be administered by the Department of Municipal Affairs who are interested in the municipalities- but it may be better to have a Board, a Referee Board.

MR THOMAS: Well as the Department pays \$1500 towards the salary of the county assessor, surely he should have some say in his removal or appointment, I think.

MR WILSON: Well this is not particularly in county assessors-it is usually in the smaller municipalities where this happens. Just this last year, in regard to Section 35, in reference to farms lands, we had, not too far away from me, where a local assessor was dismissed because he applied Section 35 the way it was written in regard to farm lands; and this man was dismissed, not because he was incompetent but simply because he followed the Act- there were personalities....

MR THOMAS: Well that municipality that he was in did it not belong to some county in Ontario?

MR WILSON: Belong to some county? And the county assessor of course had direct responsibility in that respect and he very nearly lost his job too.

MR BECKETT: Well Mr Wilson, wouldnt you overcome a lot of that if county assessors assessed individual municipalities?

MR THOMAS: But they'd still be liable to local opp-

osition, wouldnt they? Even if you had a county assessor over the whole county...

MR WILSON: I think we would very definitely get rid of a great deal of this localized pressure on the assessor if you worked it on a county or regional or area type of assessing. Undoubtedly he wouldnt antagonize everybody; and if he did, then there must be something wrong. And we would have some municipalities there that were urban by nature and some strictly rural, and some semi-rural and some semi-urban, and certainly he's not going to antagonize them all; therefore I would think that he would be on a better standard and not subject to prejudices.

MR BECKETT: Mr Wilson, you mentioned farms; the assessor of the County of Wentworth has kindly consented to give the Committee the definition of a farm and a farmer.

MR MCNEIL: We have one here, on page 2.

MR WILSON: Yes there is a definition, Mr Chairman, here; I dont think farm or farmer- this is a personal opinion- can be truly defined. It's pretty hard to distinguish between the close relationship there is between an actual farmer and a producer of farm products. I would hate to try and define it myself even though we have it in here.

MR SINGER: What do you do with the farmer and farms? We've had many representations about this...we had a suggestion that anything beyond ten acres on a farm be exempt from taxation for school purposes. Do you think that's reasonable? Do you think it is a legitimate complaint that they are presently assessed and taxed?

MR WILSON: In regard to farms at the present time, regardless of what I'm going to say, somebody is going to take exception to it- however, again the Assessment Act says...provides that land shall be assessed for its actual value. I think that should hold true so far as farming is concerned. You have had at the present time legislation in the Assessment Act, section 37, which provides that farms that do not benefit from certain improvements in land in the same way as other properties do, can be exempted by the municipality if they pass the by-law. And by the way this is mandatory, but very very few municipalities do pass it unfortunately. Now this could be expanded upon, and I feel that the land again should be assessed at its actual value, and if any consideration is

to be made, it could be made in Section 37, by expanding it or even in its present form. Section 35, as far as it is concerned, subsection 3, very specifically states in effect that anything that is being used for farming purposes, and I suggest that this is a very very broad term, and in effect it exempts all vacant land from the sales feature, or of the sales ^{weight} wait of arriving at the land value.

MR BECKETT: It also has been suggested that it might be to the same degree, golf clubs.

MR WILSON: Well I might say that I disagree especially with the legislation with regard to golf clubs; certainly it exempts them, but it does put an indebtedness against the golf club that they'll never be able to recover it. They're still...if it is for any other purpose than golfing, they're still going to be liable for the taxes that have accrued through the years, and if you do this to farmers, I would suggest that you'd never recover the money from the land.

MR MORROW: You mean the accumulation of taxes?

MR SINGER: Why, if he sells it as a farm, he's all right; if he sells it for subdivision, why one would presume that he's have enough money to pay for it. Either keep on farming or his heirs keep on farming as long as they want.

MR WILSON: There's going to be some time coming when the heirs are going to be faced with, as far as taxes are concerned, that they'll never recover out of that land. I would suggest to a young farmer starting up today at 20 years of age, say, where, if he is permitted to let his taxes to accrue over the years, he would reach the point, if he was in other than Metropolitan area, where he would never recover on a sale the taxes that would be levied...against that property.

MR THOMAS: But there'd be the exemptions he'd have over the number of years.

MR BECKETT: He hasnt had exemptions- they're only delayed.

MR SINGER: He'd only have to catch this up if he sells for other than farming; a rural acre of land- a really rural acre may be \$100. But if it gets caught up in suburban development, it could

be worth \$3000 or \$4000 and with that, surely there'd be enough to pay the taxes.

MR WILSON: Rural property in my particular area- I'm dealing strictly with general farms, not fruit farms and anything of that nature; it averages out between \$300 and \$350; we haven't too many true farmers left

MR BECKETT: True farmers- that's a new expression.

MR THOMAS: What about a capital gains tax?

MR WILSON: That is a person that is devoting his entire time to farm lands. We have many in our county that do farm but they're employed in industry or some other...working at some other thing.

MR SINGER: How big are the average farms, would you say?

MR WILSON: I suggest, Sir, 100 acres.

MR BECKETT: Mr Wilson, your definition of a farmer is a person- does that include a corporate company- incorporated company? And could he then carry on and get this particular exemption provided in the Act for him and then at a later time get the benefits?

MR WILSON: I suggest to you that the present reading of the Act, that any potential subdivider can buy land, hold it and have that hay crop taken off, and still receive the farm assessment; I suggest that it is very broad, that if there is any semblance of farming regardless of what his occupation is today, he will receive the preferred assessment provided under the Act; and I'm not objecting to it at all.

MR HEPDITCH: I just wanted to comment, Sir, that the Province of Alberta have tried this type - what you propose- under an income tax, as it were. The Province of Alberta found this unsuccessful;

MR SINGER: The golf clubs?

MR HEPDITCH: Yes, and this was tried in around I think 30 municipalities; it was also tried in Germany in the Republic days back about 1936 under Von Hindenberg, and it was removed from the statute books because it was found to be unworkable.

MR SINGER: Why?

MR HEPDITCH: Well the whole thing about it, Sir, when some persons came into power....of course the difficulty for them in

Germany, no doubt, and in other places too, was because of the inflationary spiral; when they sold their land, they were owing practically all the money that they received in capital gains- they owed to the municipalities or in Germany, to the State Government, and they removed it because it doesn't seem to be workable.

MR SINGER: Well I wonder, Mr Chairman, if the rest of the gentlemen here seem to feel as Mr Wilson does that the farmer isn't really being too badly treated; we've heard a lot of complaints about this problem from farm people.

MR HEPDITCH: Myself, personally, I feel the farmer must be protected; somewhere along the line we've got to give protection to agriculture, and give exemptions to the farmer. The urban sprawl is encroaching and bringing services that the farmer can't pay for, and I feel that somewhere along the line we have to give some protection because I can't see the back forties sending kids to these schools; and I can't see where any farmer or any farm can pay for certain services such as today's education and universities; and I can't see that the farm land itself is directly for schools. Somewhere along the line we've got to push some form of taxation- what form it's going to take- I don't know; but I do believe...there have been studies made in the United States, at present by Marion Clewson, studies made recently on all forms of taxation, and it was published by the John Hopkins Press, 1960- I forget the name of the book- but here are studies on this type of problem. Years ago we had an agricultural community and an agricultural economy; today we're in an industrial economy, and our taxation laws are premised upon the agricultural community; and the whole basis of our taxes- the base is outmoded, and we may have to look for a different form of taxation.

MR BECKETT: Have you any suggestions?

MR HEPDITCH: Any suggestions? Yes, I think we should abolish the real property tax.

MR SINGER: What alternative? Income tax?

MR HEPDITCH: I'm afraid so.

MR BECKETT: What do you think of a poll tax?

MR HEPDITCH: Poll tax, no; we've had poll tax- I feel

they are antiquated..

MR MORROW: Oshawa doesnt think so.

MR THOMAS: Well the Council was divided.

MR HEPDITCH: Well I think poll taxes are ridiculous they cost more to collect than we receive.

MR BECKETT: Well wouldnt you then get a revenue from roomers in rooming houses?

MR HEPDITCH: Yes but how can you administer it? I mean it would cost you more money...we have had poll tax and this is an outmoded form of taxation coming from the Domesday Book and beyond that.

MR MORROW: What about these five and six families that live in one place?

MR HEPDITCH: Well this should be done-somebody made the suggestion about apartment houses and private boarding houses for business assessment, and this ought to be done; but speaking off the cuff it is something that ought to be studied as well as total taxation. A grant should be made to the university for a study on taxation. Because our taxing statutes go back to the horse and buggy days and this is a sputnik age.

MR BECKETT: The City of Brantford doesnt agree with you about the poll taxes.

MR HEPDITCH: Well no, but I dont agree that we should increase the poll tax. I feel that it would cost more than you get to administer it properly...

MR MORROW: I'll agree if they put it on females as well as the males. (laughter)

MR THOMPSON: Mr Chairman, this Committee came here today with the idea that we might not disagree with one another, but I'm just about ready to do that. I dont think the income approach is the proper thing; I dont think it is sufficiently stable. I think property has been the stable down through the years, and it has been the only way the municipalities have been able to bring forth a budget every year and have done this with continuity. And I dont think we can or should take this approach unless there is sufficient evidence to show it will work; I dont

think we have this evidence; it may or it may not work successfully.

MR BECKETT: Then you think the land should pay all the cost of education?

MR THOMPSON: Perhaps not- perhaps not but isnt the Province of Ontario giving educational grants right now?

MR BECKETT: I mean apart from that- should land itself pay for the balance?

MR THOMPSON: Yes, I do.

MR SINGER: Is land really more stable than income? in the time of depression, your land values go down and it is taxed too high, people lose their lands; in running the country it is essentially on income tax...couldnt we also run the municipality?

MR THOMPSON: You see it doesnt happen just that quickly- as quickly as...

MR SINGER: You run Canada and we run Ontario substantially on income tax, individual income tax and corporate income tax.

MR WILSON: Mr Singer, I might say we had municipal income tax in 1933 in the depression, and it was removed. It was shortly before I started with the Township of York, and our files were full of income tax returns, and I understand it was one of the most difficult jobs to administrate, they tell me, in the Department.

MR SINGER: Well the other side of the coin in that era in all of Metro municipalities- they all went into receivership because because was not only the income tax not producing anything, but the real estate tax wasnt producing anything, all except Swansea and what was it? Forest Hill, Swansea and Toronto.

MR WILSON: This was quite true but most of those municipalities recovered later; in the township of York...

MR BECKETT: They recovered by making a deal.

MR WILSON: By selling their land- this land was taken for taxes I guess and in the Township of York, we were selling \$300,000 - \$400,000 worth of land a year early in '38, '39; but all our vacant land was being picked up and we were paid for arrears in taxes; I was particularly concerned with it because my parents lost property in

the depression.

MR BECKETT: Getting back, Mr Wilson, to the poll tax,
we'd like to read a note from the Ontario Chamber of Commerce in regard
to poll tax. Mrs Rowan will read it.

MRS ROWAN: "Poll tax or payroll deduction tax-We recommend that serious study be given to a form of poll tax which would be administered by employers, and this would consist of a compulsory deduction of say, 50¢ per week from each employee. Such tax, if put into effect in Ontario would produce \$55 million per annum; the income from this tax would be paid to the municipality from which it was collected, thus there would still be some correlation between the number of people working in a municipality, and hence the surplus to be provided would then go back to that municipality. It would thus have the advantage of extracting from non-residents some part of the cost of roads, police and other services used by commuters, and it would be easy to collect both for the employer and the municipality. The tax could be applied to those persons earning above an established income, say, \$1500 per annum or the equivalent of _____, with no minimum income requirement, these special taxes would raise approximately, at 50¢ per week, \$58 million; 30¢ per week, \$35 million; 20¢ per week, \$23 million; 10¢ per week, \$11½ million; 5¢ per week, \$5¾ million. Of the thirty cities in Ontario, only twenty level poll tax; none of the separated towns do so. The poll tax, unlike the payroll deduction tax suggested above, is unproductive and is not even selective. If the payroll tax were introduced, poll tax might well be abolished. None of the alternate sources of income suggested above would be adequate to make up the loss of revenue should the business tax in its present form be abolished. We would therefore recommend a differential assessment or a differential tax rate could be used in conjunction with a payroll deduction tax."

MR BECKETT: That's Chamber of Commerce.

MR WILSON: Well it certainly would have merit over a poll tax; it is another means of seeking revenue from the people- another taxation form, and I dont know whether the public are taken, so far as the various forms of garnering money from them, and they may take this

with a little more difficulty than they took the sales tax and the other taxes that we are imposing on them. I feel one person can only take so much in various forms of taxation; and some day there'll be a hue and cry about it and whether this would engender it or not, I don't know. But rather than increase the sources from which we receive revenue, by increasing taxation levels or types of taxation, I think we should endeavour to decrease them. I suggest it has been made for income; I'm not sold on income; I believe we should have to have a property tax, but I believe the proper taxation is on property and income- both property and income, a combination of the two; and I don't think I would like to personally investigate any further fields of obtaining money. I think you're going to sate the public in this field, and they may take exception to it.

MR BECKETT: This might take the form of helping the small business man; don't you think the small businesses in the Province need some assistance...of course that's not a question for this committee to deal with methods of taxation. But it might consolidate and simplify the method.

MR WILSON: I don't think so, Sir, it is another form of taxation and you might increase the number of difficulties that may arise from that; now granted it may be easier to collect than the poll tax but as you have outlined in all those...what was it 14 cities collecting poll tax- now you're going to all the individual business men in that particular municipality and burden him with another form of taxation; at the present time they have holiday pay to look after, they have deductions for income tax purposes to look after, unemployment insurance etc and now there's going to be another tax.

MR BECKETT: He might be relieved of the business tax though.

MR WILSON: Well should he justifiably be exempt from it?

MR BECKETT: Well business tax before 1904 was only to license people.

MR WILSON: Well if you increased the licensing in per quantum to what he pays for business assessment, I don't agree with it; and I don't think the municipalities would agree to increase the licensing

to that extent; and the form of revenue that we receive as far as business assessment is concerned throughout the Province, I suggest, would be very close to the figures as submitted here by the Chamber of Commerce. Why interfere with something that has been accepted?

MR BECKETT: To find more revenue than we have on the present basis.

MR WILSON: I agree with you on the present basis; that's why we suggested that the basis be changed, be consolidated into four particular ~~pages~~ that we drew up and feel are very very fair, according to our investigations.

MR CADE: (off mike entirely).....and I cant see too much wrong with the business assessment because frankly, I dont think anyone is suffering; it's either poor business or poor management, and not enough capital and not just taxation; I must say on the subject... matter of the farmer, that they should have some relief; it isnt so bad in rural townships, but in semi-urban the school rates are six or seven times the amount..... and I feel there should be some relief for farmers.

MR BECKETT: What would you think of adding the word "school" to Section 37 as an exemption for farms for certain services- to put "school" in there.

MR CADE: I'd certainly have to be in favour of that.

MR BECKETT: Then somebody else has to make it up.

MR CADE: Yes, that's right.

MR WILSON: Well Mr Chairman, in relation to your question to Mr Cade that school should be an exemption for farmers, I personally would have to disagree with this for this particular reason. I admit the farmer is not using or utilizing the schools to the same extent as he has tied up in property value in comparison let us say with an urban residential property; but I certainly dont believe that he should be exempted from school tax, and that is what you are suggesting here. If it was a suitable percentage of his tax, then I may go for it, but I couldnt agree that Section 37 should have the word "school" added. I think then he would be receiving something and contributing nothing towards it; and you'd have every other rate payer in the municipality

who wasn't a farmer, objecting to it.

MR CADE: Mr Chairman, I didn't understand it was an entire exemption- I thought he would be paying on the house and the portion- ten acres was it, or some portion of land.

MR BECKETT: That would be 50%

MR CADE: Yes. Regarding those dormitory subdivisions, too, and those semi-urban subdivisions, I don't think it is fair for the farmer to have to kick in say for his whole farm land..... we have farms down there say 2500 acres, sayand instead of 50 mills, his mill rate is 69, or 75, or 80 as is the City of London.....

MR WILSON: Mr Chairman, I might say that to me... Mr Cade has mentioned these dormitory municipalities and we also have the industrial municipalities; these sometimes are rural by nature and we find, particularly in some municipalities where we have individual school sections, a variety of mill rates, applicable to all the property in the municipality. You suggested, Sir, what we thought of county assessment; I think there's some reason to assume that we could have some form of county taxation. Now it might be tied in with the assessment; but there's reason to assume that we should have it where we could level off the burden of overall taxation to all persons within that region or area or county for certain purposes; now this may be for schools; it may be for police on a regional basis and so forth. I feel myself there's reason to assume that taxation in this manner is a necessity, and that it certainly would even off the load. And we would then have the farmer demanding as much so far as education costs and the excessive costs that he pays for taxation. Because I do believe that on a county basis, it could be levelled off, or a regional basis, whatever was set up. I think this could be levelled off and he would not have to pay as high taxation. I have in mind in my own particular county in a particular municipality where almost 65% of the assessment is industrial assessment and this is a rural municipality; and their school rates are very low in this particular section, particularly where the industry is. I'll grant you that they do make a grant to the other school section, but not in proportion that they should be doing; and as a result the others have an excessive school rate.

They're in a union school section- adjoining union section where they cant receive any grant from the municipality. And I do believe that if this was levelled off that there wouldnt be this trouble with the farmer paying the excessive educational tax on all his land today. He would probably pay a little higher than he did before, but not as high as at present.

MR VAN RASSEL: Your suggestion might be feasible to determine the amount of land and buildings in excess of the normal residential... and the farming land and the buildings in excess of his residence and I dont think the assessment would be too difficult requiring two columns...that's all it would require.

MR BECKETT: It is interesting- we had a deputation here where one of them suggested- it was a farm organization- that if you were going to give owners of buildings the right to have a rebate for vacancy, then a farmer should get the same treatment when there was a crop failure.

MR WILSON: The difficulty is what is or what is not a crop failure.

MR BECKETT: What is?

MR WILSON: Yes, it is pretty difficult, Sir to say what is and what is not a crop failure. I come from the fruit section and very often you hear them crying about their crop and yet to some one else they'll say, they've had a pretty good crop.

MR HEPDITCH: One comment, Sir, if my ears served me right, I heard Mrs Rowan say that regarding the Chamber of Commerce proposal, that this money would be paid to the municipality for which the men were working, is that right?

MRS ROWAN: (reads) "Such a plan if put into effect in Ontario would produce in excess of \$55 million per annum. The income from this tax would be paid to the municipality in which it was collected; thus there would still be some correlation between the number of people working in a municipality, and hence the surplus to be provided

MR HEPDITCH: Ah, that is it. What about education?

MRS ROWAN: "It would thus have the advantage of extracting from non-residents some part of the cost of roads, police and

other services used by commuters, and it would be easy to collect both for the employer and for the municipality."

MR HEPDITCH: Well I take issue with this because I believe that one of the services , and they didnt mention an appropriation and this happens in the municipality in which they live, that is they have to educate their children; and I cant see ...this is one of the groups today that you'd have to assist-the fringe areas. This is the reason for Metro, and I feel this tax, while it may have merit, and I am not saying it has not merit, but the tax should not be paid to the municipality in which the men work, but to the municipality, or a proportion anyway, to the municipality in which they live. This is the reason why business collections...business taxes probably is a low tax where people live...now if we never accept this urban sprawl, all right; but if we do accept this urban sprawl, then the municipalities where this is taking place must receive some measure of tax relief.

MR QUANCE: I'd like to refer to Section 3 of the Assessment Act where it says:in the Municipal Act or in any other general or respective Act of the Legislature or any by-law passed under any such Act, the union rate or any special rateis to be calculated and levied upon the whole of the assessed for real property, business or other purposes under this Act." Now it has been suggested by several to this Committee in other Briefs that you have mentioned this afternoon that there should be certain exemptions, but our Brief holds that Section 3 should not be changed. It should be on the whole of the assessment that is made by the assessor. It has been suggested in one Brief that assessment should be made at actual value, and it should be left to the Council of the municipality to determine the percentage of that assessment that would be used for tax levy. Now one reason for assessment is that an assessment has been taken of actual value and 100% used for tax levy, there's a relation with the assessment for grant purposes, or for equalization for raising county rates and so on. And if we interfere with any of these others, it's going to take the clerks of the municipality for taxing purposes, practically the whole year to analyze the assessment roll ...that's been prepared to determine how it should be set up to provide

the money for the different bodies or Boards. Now this is true. Our Brief also suggests that there should be no change in Section 37. It has been suggested in Section 37 that it will help to relieve certain expenditure, for police protection, for fires, for oiling and garbage collection and certain other expenses. It's getting today that the farmer on his farm property is getting all those services; as far as fire protection is concerned, especially in South Western Ontario, we get more calls at the Delhi Fire Department for grass fires than we do practically for anything else. It has also been suggested by industry that they don't send children to school; they don't require police protection or fire protection- I believe the oil companies have made this point. What happened up in Littlefield Township when ten miles of line blew up there. The fire and police were the first services called upon; in Oxford County, where we have the Union Gas Company, and several other gas companies drilling for oil- we get fires every year and we get called every year. As far as business assessment is concerned, the business can very well take care of that- the tax they require under business assessment- all they do is put that into their prices and the consumer pays it. But the person who owns his home- he pays it out of his pocket.

MR BECKETT: Thank you. Now is there any other point that you would like to make, Mr Wilson?

MR WILSON: There is one other thing in regard to transmission lines- as you know we pointed out to you that in our opinion the assessment of these pipe lines is not at its actual value or a percentage of that; similarly, we might point out to you that there's no business assessment on this; and in this way it is different from any other type of industry we have. I might say in regard to the Gas Companies, there is no business assessment on lines running along the streets. Now it is our opinion that rather than being down graded, the rates of the distribution lines should be retained or increased and the transmission lines should be also, and they should be assessed for their actual value.

MR TAYLOR: Mr Wilson, have you ever considered site valuation?

MR WILSON: Site valuation is coming very much to

the fore at the present time. I remember reading a series of four articles on that in the Canadian Tax Foundation Quaterly (chit chat re author) I havent made any great study of it; I understand, of course, that the Province of Alberta at that particular time had site valuation and at the present time...but I dont think quite frankly ...it's a single tax on land, basically that is what site valuation is.

MR BECKETT: In other words you wouldnt tax improvements?

MR WILSON: Well...I suggest to you that here in the City of Torontoon King Street, you have the Bank of Commerce on a very small parcel of land; next door-just down the street, you have several properties and their land value was...they're all related to one another they're very close to each other. Now if you didnt assess improvements on land, it would mean that your buildings could go up to tremendous heights and you'd get no revenue from them at all- only on the land being used. And no matter how high the buildings were nor how many they housed, you still wouldnt have to pay any more on them than the **site** they are utilizing.

MR TAYLOR: Partly controlled by building ...

MR WILSON: Yes, partly controlled by building but at the same time, in your residential, your ordinary person who wants to live alone, would in effect be penalized because he would be paying on the same value- the same amount of land right next door to the apartment with no consideration of the improvements on the land.

MR TAYLOR: What are the modifications of that plan?

MR WILSON: I'm not sold on site valuation in any way shape or form...

MR TAYLOR: In Pittsburg, Penn. there were a couple of....

MR WILSON: .. I dont know how they're treating that I didnt make a study of it- I dont know how they're treating it in respect the improvements that are on the land and increasing the site value by those improvements. I think in a round about way, they are actually taxing those improvements.

MR VAN RASSEL: One thing about site valuation, errors in judgment of valuation are greatly magnified...and it is something to be

very careful of.

MR WILSON: That is one of the reasons, by the way, Gentlemen, that we suggest 1960 values in our Brief, for the simple reason that it would magnify any errors that we have been making, and after all, we are human and do make mistakes. And there would be more revenue attainable, we suggest, if we are using the higher value year at the present time. Similarly it gives the tax payer a more reasonable way of comparing their assessment, and we think this is important. Today a taxpayer receives an assessment where he is shown a value by the assessor of approximately a third of the value of his property; and he looks at it and is not too concerned, but he certainly knows that this is a lot less than the worth of the property, and he says: Where have I got to appeal? But if we were working to closer values, then he would be more interested; he would come to our office and check our assessments and compare it with others far more than he does at the present time. I therefore think that would be a good thing for us and for the property owner.

MR BECKETT: You think you'd have a more contented taxpayer?

MR WILSON: Well I think that's true; we have a lot of contented tax payers and they shouldnt be contented.

MR BECKETT: Well I thank you very much, Gentlemen, to me it is the most important statute we have on our books. And if you have any other suggestions later on, please write and tell us.

MR WILSON: Mr Chairman, if I may say, if at any time you desire our presence here to discuss any case you may have, we'd be only too pleased to come to express our opinions and we certainly appreciate the opportunity of appearing here today. Thank you.

MR BECKETT: Thank you very much, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-FOURTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 JULY 12th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J. A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

J.A. Tuck, Q.C.
 B.T. Holmes
 W.J. Adams
 W.T. Morgan

PRESENTATION:

BRIEF - THE CANADIAN LIFE INSURANCE OFFICERS ASSOCIATION

THE CANADIAN LIFE INSURANCE OFFICERS ASSOCIATIONHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, it is 10.30 and we have with us this morning, the Canadian Life Insurance Officers Association. Mr Tuck, would you like to come up here and you may proceed in any manner you care to.

MR TUCK: Thank you very much, Mr Chairman and Committee Members, for giving us this opportunity of presenting our views. I am the spokesman of the Life Officers Association which is the trade association of the Life Insurance Companies. With me is the Association's Vice President, Mr B. T. Holmes. Mr Holmes is also Chief Actuary. Also with us this morning is Mr W.J. Adams, a member of our Taxation Committee, Vice President and Secretary of Canada Life; and Mr W.T. Morgan, the Association's Assistant General Counsel. Now this problem, of course is not a new one. You have heard from us and from others before within the year- I think ours...our first representations were made ten or twelve years ago, and we have since discussed the matter with the Ministers and Deputy Ministers and the Advisory Committee on Municipal Affairs a couple of years ago. I believe, Sir, you have copies of our submission; Mr Morgan also has copies that we might pass around of the submission we made to Mr Cowling's Advisory Committee on Municipal Affairs with tables of figures. (copies passed out) Our submission is a very brief one- first, we say who we are and we say that our companies have 45 offices and 450 branch offices in the Province; then we say we are not taking a position against business tax of course; it seems to be necessary, but our strong feeling is that it should be based on a single percentage of reality assessment and not on the present classification system. This system was determined 60 odd years ago and it bears some relation on the ability-to-pay; we don't think this should be so today; and we don't think that any classification could ever achieve this end. I am sure you are as familiar as we are with many of the problems that have developed over the years from the inequity of the system. Municipalities and some rather important ones have recently inaugurated

business tax assessments; Vancouver, about ten years ago put in the flat rate system rather than the classification system. We're not in the top category- that's reserved for one important business- the distilling industry, but we are in the number 2 category, along with the other financial institutions. We see no fairness in our being put in the 75% category when there are other forms of business down the road at 25%. We've encountered a rather interesting instance of discrimination that is new; one of our competitors in the health insurance field PSI, the doctor sponsored pre-paid medical plan- this organization has been paying business tax, we believe, under a lower category than we have; but recently they took the City of Sudbury to court and they said that PSI is not a business; it doesn't have to pay any tax- any business tax. The court upheld this contention and in checking with the City of Sudbury, the case is not being appealed. I believe that relatively few dollars were involved in Sudbury-it's just a branch office. And we believe that PSI will take the position that everywhere, including Toronto, where they have their head office, that it is not a business and not subject to business tax at all. And certainly we regard PSI as a competitor of the insurance companies, and we don't think it should be in any preferred position because of its constitution, to let's say a mutual life insurance company. This is, as I said, a recent indication of the inequity of the system which is becoming rather tense. We don't see any more justification for a graduated classification in the business tax system than in the real property tax field. Both are levied to pay for municipal services, and most of these services do not vary greatly depending on the type of occupant. Now, we're very conscious of the fact in the discussions we've had with other groups that a change over to the flat tax system would present problems in some municipalities; and our suggestion is that the Bill should be drafted and the change made and a period of time given for the slide over to the new system. If a change-over to the flat tax is not possible, then we do urge most strongly that we should be in a lower category than 75%....We....

MR BECKETT: Right there then, what percentage do you suggest? Or have you made any recommendations?

MR TUCK: Yes, we think that our percentage is the minimum applicable to any type of occupier of office space.

MR BECKETT: Such as solicitors?

MR TUCK: Yes I would say such as solicitors; we don't draw any more heavily on municipal services; we don't create any special problems respecting ordinary municipal services, such as water, sewage; we don't draw heavily, even on roads or transportation. Our offices do not attract great numbers of the public, requiring parking accommodation for automobiles and so on. Therefore we just don't see why we should be in a higher category than any other occupant of office space. We point out the nature of our business-the fact that the people, who use our services, pay ordinary taxes like all other citizens and we operate simply as a vehicle through which they can exercise thrifty instincts; and we don't think there should be any special penalty on them for this. And the penalty does fall right on the policy holder. Our companies are largely mutual in character; a very substantial part of our business is written by mutual companies, and the stock companies write a great deal of business on the participated plan; so that business tax simply means that the cost of our insurance to the policy holders is directly affected by the amount of the tax. This may not be so in the case of other financial institutions which are operated on the normal capital stock basis-not on a participating basis- but be quite sure it is so in our case. Now the second document which begins: - "To Mr Cowling's Advisory Committee, the comment was made to us that it might be helpful if we documented the tax which the business tax levies would pay in some typical Ontario municipalities. And we had said to the Committee that we understood that in a large Ontario municipality a study had been made by the authorities as to what flat rate would have to be used, if the categories would disappear. This study revealed that a 40% rate would produce the same as the same as the rated grades now do, so using that as a base, we prepared the figures that you see on the second page for Toronto, London, Kitchener-Waterloo.

MR BECKETT: Just while you're there on the rates, we compiled figures and Mrs Rowan will tell you in what percentages we have calculated from Briefs received...over 400 Briefs received from

different municipalities throughout the Province.

MRS ROWAN: We circularized all the municipalities and received 400 replies of which 349 were usable. In analyzing those, I found that the medium percentage applied as follows: Metropolitan Toronto - 47.6%; the others cities - 44.5%; separated towns - 45.6%; towns - 42.7%; villages - 33.9%; townships - 33.3%; improvement districts - 34.7%; and taking a combined figure, the medium percentage for all those municipalities was 35.8%. That's the basis for their assessment. Now when it came to taxes collected, it was found that the total for the number of assessments and the amount of tax levied, that 60% was the most productive; it produced 42.3% of the total tax. The next one was the 25%, producing 18.5%; followed by the 50% which produced 16.1% and the 75% group which produced 15.7%.

MR TUCK: Do I take it, Mrs Rowan, that business paying on the 60% basis, produced 42.3% of the total business tax?

MRS ROWAN: Yes, 42.3% of the total business tax.

MR TUCK: And the category we're in produced 15.7% and the distilleries produced 1.1%?

MRS ROWAN: That's right. Out of nearly 400 municipalities.

MR TUCK: That's very interesting. It gives a figure of 35.8% which is no doubt considerably more accurate than the 40% we used...

MRS ROWAN: Yes, but of course your survey was taken in a more urbanized locality where you get a higher medium percentage.

MR TUCK: Well our 40% should probably have been 43 or 44%.

MR BECKETT: But you were within the range.

MR TUCK: Yes. Well on page 2 of this submission to the Advisory Committee, there is set out in the first column the 1958 tax that we paid under the 75% basis, and this is separated into head offices and branch offices, the three municipal areas combined, \$781,000 for head offices and \$108,000 for branches; and then the re-calculation on the 40% basis, showed that this would drop to a total of \$474,000 for a saving of \$415,000. Now this survey wasnt of all our

100 companies, but it was of 19 companies that produce 83% of the business, which we think is fairly representative; increasing that by adding in something for the others, you'd bring it to a total change of tax on the basis of changing 75% to 40%, to a little better than half a million dollars- all going back to the 1958 tax.

MR THOMAS: Just about half.

MR TUCK: Yes. Now how much the municipalities would make up in the categories below...now below 40%, of course we have no means of making a calculation such as Mrs Rowan has made here. Now Mr Chairman, that's all I have to say; possibly Mr Holmes would wish to supplement it, and Mr Adams.

MR HOLMES: Mr Chairman, I think our Counsel presented our case very clearly; there's just one point occurred to me as he was speaking, that the companies represented in our submission of figures here, as he has said, represent the great bulk of the life insurance business in Ontario. The municipalities...the three municipalities selected-in looking at those figures, you should remember that these municipalities are the municipalities where largely the head offices of the companies are-these are the municipal areas that would be mostly affected by the change such as we are recommending.

MR TUCK: I think the only other municipalities where we have head offices is Ottawa, one quite substantial one; Kingston, a small one; Hamilton, a couple of small ones; I'm speaking of life insurance companies.

MR HOLMES: There are branch offices in other cities; these are the head offices in the municipalities.

MR TUCK: That's right; the impact of the change would be far less in the other municipalities.

MR BECKETT: Mr Adams, have you something to add.

MR ADAMS: I have nothing further to add, Mr Chairman, but I would like to perhaps emphasize one point Mr Tuck made insofar as the life insurance companies are concerned, to point out the essential difference from other financial institutions. Most of the life insurance business now is coming to be a mutual company-it has no

shareholders; there are no profits. It's merely a medium through which citizens can protect themselves against the effect of dying too soon or living too long. The cost of providing these services is just as in any co-operative-the straight division of cost between the various policy holders, so that this half a million dollars we're talking about, this differential between the 75% and the 40% is a straight additional tax on thrift and the premium could possibly be reduced by that much almost automatically; and it's seems most unfair and inequitable therefore that people who are already paying their share of taxes in other ways, just because they have the foresight to provide for their dependents to prevent them from becoming a charge upon the state, should be faced with this substantial additional tax over and above what other business are paying; and even though some of the companies are stock companies, I might point out that that doesn't really affect this argument, because most of life insurance is bought on the mutual basis anyway, even in the stock companies; and by federal legislation, the shareholders in those companies are restricted to a very small percentage of profit on that. The great bulk of it, from 90% to 97 $\frac{1}{2}$ % must go back to the policy holders; so even in the minority of the life insurance business that are stock companies, this same mutual principle applies and the taxes they pay, are a direct charge again, to a very great extent on the thrifty citizen. Now we submit this is different from any other financial institution. It's comparable to the one Mr Tuck mentioned, PSI. However, we're not urging, because of that, the life insurance business should not pay any tax. Our real Brief is that a graded tax is inequitable in any event, and we would suggest a flat rate. Now we've been suggesting this for 12 years or more, and each Committee and the Ministers involved and so on, have all agreed that there is an inequity, but have pointed out, and we realize the great difficulty that once you're in that, to get away from it. We submit that if a start had been made, say 10 years ago, with just a very few percentage changes at the time down from the top and up from the bottom, it would be solved by now; and we do urge your Committee now to recommend that such a start be made now, so that 10 years from now, this will no longer be a prob-

lem. This has been done in some municipalities, Vancouver, for example, as Mr Tuck pointed out, and we see no reason why by a gradual approach, of say 2% a year, it couldnt be solved in a reasonable time.

MR BECKETT: You, Mr Adams mention Vancouver; has Vancouver a by-law setting up their percentage of tax, that is one percentage for everybody?

MR TUCK: Yes, it's 10% of something-I forget-I dont think the basis is the same as in Ontario. In Ontario it a percentage of the reality assessment. I think in Vancouver it's 10% of the rental value and applies to everything. Vancouver had no tax up until about 10 years ago-no business tax. And when they put it in, they put it in on the flat basis; Montreal is the flat basis too, and I think all other Quebec municipalities; and I think many other smaller municipalities are flat, but there are graded ones in some other provinces, but none of them are as sharply graded as Ontario.

MR BECKETT: You might say that under Section 427, based on the Municipal Act, "a Council may by by-law". Now this is a local option system in British Columbia; whereas in Ontario, "it shall be....may provide for an annual tax, hereinafter referred to as business tax, of any person occupying or using real property or any building or structure or part thereof,....so and so....the tax be based on the annual rental value of the real property occupied and used for purposes of such business;" and then they classify the tax and they fix the rate. It's not fixed by statute, just by by-law. Well outside of Vancouver are there any other cities in British Columbia that have this tax?

MR TUCK: Yes, Victoria and New Westminster, I believe have business tax-this flat rate; but the smaller municipalities in British Columbia have not taken advantage of that legislation, but have stayed with a license fee system which grew up in that province over the years. They have license fees of \$25, \$50, \$100 and \$300 per business. There's quite an exhaustive review of the various provincial basis in two of the Canadian Tax Foundation publications.

MR BECKETT: Yes, we've read those.

MR TUCK: One was by Prof. Clark of the Univer-

sity of British Columbia and a more recent one supposed to be by Mr Fennis, is it, the municipal expert.

MR BECKETT: Then if these three municipalities lost this half a million dollars business tax, where would you recommend these municipalities levy that amount?

MR TUCK: We go for the flat rate, the medium.

MR MORROW: The one coming down from the top and the others coming up from the bottom.

MR TUCK: Yes, over a period of years. Then, as Mr Adams has said, this will be quite an adjustment in some municipalities to absorb in any one year, but if some have more in the high than they have in the low...it would be an adjustment.

MR BECKETT: Any members of the delegation that have anything to add? Any Members of the Committee would like to ask any more questions? I might say then, Mr Tuck and Gentlemen, we have all these Briefs from all these municipalities and Briefs from many different associations; and the Committee is pretty well aware of the problems.

MR COWLING: I think the important thing here, Mr Chairman, for the life insurance group is that any reduction in the tax would reflect in lower premiums for the buyers of insurance. Well the life insurance companies have all the money anyway-they're putting up fine big buildings now and in this particular field is going to reflect the policy holder and I think that's a good point..... but \$1000 worth of life insurance just to save \$2....(Mr Singer and Mr Thomas both speak)

MR THOMAS: Mr Chairman, the comparison of the life insurance company with PSI is a very interesting one; I wonder why PSI is exempt from business tax. (cross talk re this)

MR TUCK: They convinced the court they were not a business.

MR BECKETT: They convinced a County Judge.

MR MORGAN: It was Mr Justice Aylen. (cross talk re procedure and other cases)

MR TUCK: And as I said, we checked with the City of Sudbury within the last few days, and it's not being appealed.

MR THOMAS: I wonder what justification there would

be for such a legal interpretation of the Act.

MR TUCK: It was simply a legal interpretation of the Act and the question of business.

MR THOMAS: Just because it is operated by the doctors, there is no reason why they shouldnt pay their share; they are a very influential group, you know, but if there are profits....

MR ADAMS: There is no profit...noone is making a profit out of it; the one is controlled by the doctors and the other by the policy holders, but as Mr Tuck told you, even if it is a non-profit organization, it should be prepared to pay for the municipal services it requires.

MR THOMAS: I agree.

MR TUCK: I might say we were a little startled when PSI took this course; we had worked for a number of years under another disadvantage with this particular organization, in that we are subject to provincial premium tax, and that is under statute from this Legislature, and this organization is free from that. I think it rests entirely on the Act. Justice Aylen said Counsel for Sudbury, Mr Bruce, in a complaint referred to the Constitution of the organization, and said this was a business within the meaning of the Assessment Act; and then Mr Justice Aylen went one and said it was true that the company was incorporated by the physicians and no doubt the physicians benefited; but the public also benefited; it was simply an in-between agent of subscribers and members. The fallacy in the argument put forward by Sudbury seems to lie in the fact that there is no possibility of benefit or profit to the corporation itself, which of course is a separate entity in carrying on business within the meaning of the Assessment Act. In other words, he says that Physicians Services Incorporated does not benefit from what this thing does. Well in the same sense, the Mutual Life Insurance doesnt benefit because it is owned by policy holders entirely. He refers to the Corporation; he cites the number of doctors and the number of subscribers, and then he says I have been referred to some previous decisions, and he refers to the judgment of Mr Justice Wells and the Ontario Motor League and Metro Toronto and to another case in Vancouver, and says:- I consider the judgment in the Ontario Motor

League case governs the decision. The company I am dealing with cannot operate at a profit and this is common ground. Some of the profits arising from it may be divisible among its members or the subscribers and so on.

MR BLCKETT: Have any of your companies appealed?
(no) Have they any intention of doing so?

MR TUCK: No, Mr Chairman.

MR MORROW: Has PSI followed this along in other cities?

MR TUCK: We would feel a little bit reticent about going to PSI and asking them; the authorities here indicate they are aware of this finding.

MR MORROW: They have a large office up on St Clair in Toronto.

MR BLCKETT: We could find that out for ourselves. Any other questions? Well Mr Tuck, we appreciate your coming and giving us this information, which along with what we have already received from other sources, will be very beneficial to the Committee. If you have any further information, please send it along. Thank you very much.

MR TUCK: Thank you very much, Gentlemen



LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-FOURTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
JULY 12th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer
Thomas D. Thomas

APPEARANCE:

R. Leighton Foster, Q.C.
L.C. Hamlin, C.A.
Wharton F. Hood

PRESENTATION:

BRIEF - THE CANADIAN FRATERNAL ASSOCIATION

THE CANADIAN FRATERNAL ASSOCIATION

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Mr Foster would you like to come up here and introduce your delegates to the Committee.

MR FOSTER: Thank you, Mr Chairman. I am Counsellor for the Canadian Fraternal Association whom we represent this morning, and with me I have two Officers of the Ontario Provincial Society, the Secretary-Treasurer of the Canadian Order of Foresters from Brantford; to those of you who know Brantford, know that they have a very fine office building in Brantford, Mr Hamlin, Chartered Accountant who is their Secretary-Treasurer; and we have the Independent Order of Foresters represented by the Vice-President and Secretary, Wharton Hood. (chit chat re old times) I was telling the Chairman this morning when I walked into this room that it was just 40 years ago this summer since I sat in the position of Mrs Rowan, and acted as Secretary of the Select Committee, that were attempting to revise the Insurance laws of the province. I was paid \$8 a day, each day the Committee met, and that was a lot of money in those days. Subsequently, I was appointed Superintendent of Insurance, the position that Mr Whitehead has held recently, and now Mr Richards, of course; and I was with the Department for 11½ years before I found I could do better for my family if I went down town and practised law, and I did that in 1935, and that's where I've been ever since; and I became General Counsel for the Life Insurance Companies and that position has been pre-empted by Mr Tuck, whom you have just heard, and he has been with the Association some 20 years; meanwhile, during all that time, I have been Counsellor for the Fraternal Benefit Societies. My father was the Supreme Secretary of the Order of Canadian Home ^{Service} Circuits, an organization that was organized in Waterford, Ontario in 1888 or 1889 and had 40,000 members, mostly in the Province, and it carried on until 1927....

MR BECKETT: For 40 years.

MR FOSTER: Well this Canadian Fraternal Association, as a matter of fact, is a few years older-it's now in its 71st

year and it represents some 7 of the societies all the names of which are known to you and with head offices in Ontario; and an additional 11 societies that do business in the Province, but have only branch offices here. Those, as I say, you know are the Woodmen of the World, of London, the Canadian Order of Foresters of Brantford, the old Pilgrim Friends, now called the Reliable Life Insurance Society; the Sons of Scotland; a fine French speaking society in Ottawa, Union du Canada, and the Mutual Benefit Fund of the Grand Orange Lodge; and of course the largest of our Canadian Societies, the Independent Order of Foresters. Those Societies all have their Head Offices in the province. Other societies are known to you no doubt, The Catholic Order of Foresters, Knights of Columbus, the Lutheran Brotherhood, Royal Arcanum, and the Sons of Norway, Society of Finland, and other benefit associations that number eleven, and one commercial travelling association.

MR MORROW: What about the Independent Order of Oddfellows?

MR FOSTER: They were reorganized as a life insurance company. (chit chat re Odd Fellows) The Fraternal Society, of course, is not what it was 50 years ago but I would say there are about 150,000 members of these fraternal benefit societies that I have named in the whole of Ontario and their business totals about \$300,000,000, which is not large of course in terms of insurance; it gives about \$8,000,000 a year in the Province of Ontario from these companies I have named....

MR BLCKETT: Is it pretty safe?

MR FOSTER: It's increasing a little bit all the time; there is very little really I can add, Mr Chairman, to what Mr Tuck has said on behalf of the companies; the societies are in the same position-they want to pay their fair share of maintaining municipal services just like any other organization, profit or non-profit, co-operative or whatever you want to call it. I think if anything, the fraternal societies are a little bit more mutual or co-operative in character and by appearance, but not in fact, than the mutual companies we are talking about. In fact there used to be a big sign on the Temple Building on Bay Street, which was for so long the head office of the IOF fraternity plus insurance; the fraternity still holds a very high

place in the operations of most of the successful and growing fraternal societies; so I'd like to associate myself, as I know Mr Hamlin and Mr Hood would, with what Mr Tuck has said and Mr Holmes and Mr Adams speaking for them. I'm told, and I havent looked it up, Mr Chairman, that one of our societies, some years ago, took the same position that PSI has taken, namely that a fraternal or friendly society was not in business, and therefore not subject to the tax; but the Legislature got around and fixed that pretty quickly; they looked at the definition of insurance company, and the Act today includes the fraternal benefit society, so if my information is correct, and the matter did go to court, it was picked up at the next Session of the Legislature, I suppose, by amending the definition to make sure they were included.

MR COWLING: Are you suggesting they should include the PSI in that, Leighton?

MR FOSTER: I would think it would be perfectly reasonable; if you're going to say, for example, that the Foresters are in business, then the PSI are in business just as much as the Foresters.

MR COWLING: Sure.

MR FOSTER: I dont think there is any argument there. Mr Tuck made a brief reference to the Canadian Tax Foundation and Mr Finnis. I'd like to draw your attention to the fact that in our little Brief, copies of which were filed with you, I quote from what Mr Finnis from the Canadian Tax Foundation said in a Conference in November here in Toronto in 1960, and I quote:- (reads page 2, line 7) "I contend..... not today" In brief, our submission is, Mr Chairman, (reads page 2, 5) "Fraternal societies..... 75% category." And I take it that the Members are very familiar with the various categories, including the 25%; and I hadnt recalled until this morning the omnibus clause at the end:- any business not mentioned specially in any of the categories in the Section goes into the 25%-it's really an omnibus clause. It may be that Mr Hamlin would like to supplement what I have said.

MR HAMLIN: Mr Chairman, I feel the situation, as far as the fraternal organizations are concerned, has certainly been adequately covered by not only the Canadian Life Officers Association,

by also by Mr Foster. We do feel that a society like ourselves dont make a great demand on the services of a city; in fact we go out of our way to try to beautify a city, and in effect, possibly through our efforts help the city by doing our share to help increase assessments by increasing the value of the surrounding land. We, of course, dont want to shirk any of our responsibilities, but we would like to see some change in the percentage figure to make it more equitable.

MR HOOD: Mr Chairman, I would like to mention the fraternal activities which might be of interest to your Committee in considering this problem; we spend, and I'm sure all of the other fraternals spend a very considerable piece of our revenue in encouraging social and fraternal activities; and these in turn come back to the municipality. Every lodge likes to get its teeth into some good benevolent project; it may be retarded children; it may be helping a hospital, or this, that or the other thing; so these expenditures are not business in the ordinary sense of the term, and I'm quite sure the Committee will appreciate that. I would think out of our budget ...expenditure budget of \$800,000 approximately of our own society, and I think the others will have similar ones...in proportion probably, we allot 15% to spend in promotion and that sort of thing.

MR BECKETT: Any questions from the Members of the Committee? If at any time, you have any further ideas....

MR FORSTE: I think I would like to say one concluding word if I may, and that is, in my own experience this matter ...this problem is over 40 years, but I dont know when a Select Committee of the Legislature has been appointed with exactly the power and instructions that this Committee has.

MR BECKETT: Mr Foster, I might say that this is the first time there has been a Committee like this set up since Confederation or since the Municipal Act was first enacted in 1849. When you think that under our terms of reference, for the purpose of modernizing, consolidating and simplifying the Munciipl Act and all the related Acts, you see we have a wide mandate. We do appreciate your assistance from your organizations; it's quite a help.

MR FOSTER: Thank you Mr Chairman and Gentlemen.

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THURSDAY,
JULY 12th, 1962

MORNING SESSION

HOLLIS BECKETT, Q.C.

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APPEARANCE:

Col Wm. Griesinger
Wm. Wagner
V.E. Boake
David S. Prowse

PRESENTATION:

BRIEF - ONTARIO RETAIL LUMBER DEALERS ASSOCIATION INC.

ONTARIO RETAIL LUMBER DEALERS ASSOCIATION INCORPORATEDHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Col Griesinger, would you like to introduce your delegation.

COL GRIESINGER: Mr Chairman, we're representing, as you know, the Ontario Retail Lumber Dealers Association of Ontario, and the Committee today is composed of myself, Mr Dave Prowse, who is the Manager of the Association, Mr Bill Wagner, who will be our spokesman and Mr Boake of Toronto.

MR BECKETT: Would you gentlemen like to come up here. Well, Mr Wagner you may proceed; you may read your Brief or comment on it- anyway you'd like to take it.

MR WAGNER: Mr Chairman, on behalf of our Committee, we'd like to express our thanks for the opportunity to express ourselves a bit more fully than our Brief has outlined for us. In promulgating the Brief, we tried as much as possible to keep it as precise and as factual as possible. Am I to understand that the Committee has not read the Brief?

MR BECKETT: Some time ago. If you'd care to read it again, it is quite in order.

MR MORROW: Mr Chairman, I think it's a good idea to go over it again; perhaps our memories are not too good.

MR BECKETT: Yes, it's not too long.

MR WAGNER: Very well then. In our letter to Mr Beckett, it reads:- "The lumber dealer's role....the province. To this end we submit the attached Brief." The Brief itself reads:- "The 1904 Lumber Dealer.....outside." (page 1, para 1) I would like to add it is very seldom today that you see a large drying yard for rough lumber. This administrative office referred to, doubles as a sales-room (continues, page 1 para 2) "Sales were.....which we all share." (page 3, para 1) It may be well to explain the dilemma that the lumber dealer finds himself in when it comes to examining his own tax category. Somewhat more than half of the lumber dealers, if I can continue to use

that term, he is really a lumber merchant...but I'll keep referring to them as lumber dealers...possibly more than half of the lumber dealers from my experience, are assessed on the basis of retail merchants, which in the Assessment Act in areas having a population of 50,000 or more, the business assessment is 25%; in areas having a population of 10,000-50,000, the assessment is 30%; in areas having a population of less than 10,000 people, they find themselves assessed at 35%. The other 40%, let us say, 40% - 45% find themselves assessed as lumber dealers, and this assessment automatically carries a 50% business assessment, as related to real property assessment. To some degree, this has been the policy throughout Ontario from one community to another. Some communities have recognized the lumber dealer is no longer a dealer but a lumber merchant, and of their own volition have made the assessment as a lumber merchant; other areas have made the interpretation that a lumber dealer is a lumber dealer, and under 91 (f) of the Assessment Act, he is automatically 50%. If the lumber dealer disputes or takes the matter up with the assessors, the assessors will refer to this Section of the Act which reads, that if his assessment is in excess of \$20,000, and this figure of \$20,000 was struck in 1904, and we submit that it no longer is representative of the function that it was then intended to perform; so if the lumber dealer has an assessment of over \$20,000, he automatically is considered to be a retailer dealing in more than five branches of the retail trade; or is considered a department store, which we feel, to some degree, is really not an interpretation that the Act was originally intended for. The lumber dealer, true enough, he has changed somewhat, but he has not invaded other fields. If he calls himself a building supply dealer, in most cases he would be assessed as a merchant; if he has the term lumber in his title-anywhere in his title- he is automatically considered to be a lumber dealer and he has to fight his way out of that categorization; and it is our hope that, while we know we must pay taxes, it is our hope that legislation can be so brought about that there will not be the variety of assessments throughout the province, but a more uniform assessment, and that the assessment itself will not be as hard for the lumber dealer to interpret and possibly to

accept, because to some degree, there hasn't been a reasonable explanation for his assessment; and the assessors themselves, when I refer to the publication that the assessor at Peterborough made after we were assessed under the five branches of the retail trade..."this company will remain in the 50% bracket" and the newspaper article went on to say "it's too bad our legislation is so antiquated, I had no other course of action, although I was sympathetic"...I don't know how valid a submission of that nature would be, but it is indicative that where we have been dealing with assessment, the assessor has to some degree, expressed a certain amount of sympathy. Probably the single greatest movement came in 1957, when the Clark Lumber Company was assessed...had heretofore been assessed as a retail merchant, and in 1956, I believe it was, the assessor made the assessment as a lumber dealer carrying a rate of 50%. The company felt this was not acceptable and took it to the Court of Revision; the Court of Revision upheld the assessor; it was then taken to the County Judge, and if I may, Mr Chairman, I have the decision of Judge Lewis, as it was handed down which had quite an effect on the assessment procedure. This judgment was published in the Assessor's Manual, or rather in the Assessor's Review; the assessors then made the change of their own volition, changing a good number of lumber dealers to retail merchants.

MR BECKETT: It didn't go any further than the County Judge? It didn't go up to the Municipal Board?

MR WAGNER: There were some that went...I have one case in particular that did go to the Ontario Municipal Board. It had to do with a case in Islington, and in that particular case, the appellant lost the case because the Ontario Municipal Board did not adduce that plywood was a substitute for lumber, and he did not adduce that other dealers- building supply dealers- did not merchandise this material. This is the finding of the Ontario Municipal Board...that plywood would have to be considered to be lumber.

MR BECKETT: Have you the County Judge's decision with you?

MR WAGNER: Yes, I have, Mr Chairman. (passes

copies to members)

MR BECKETT: What is the highlight of this decision?

MR WAGNER: The highlight of the decision, Mr Chairman..if you would look about half way down page 1, para 1...(reads) "The Appellant owns.....business of the Appellant." (page 3, para 4) This is a situation where the Appellant is declaring that the preponderance of his business is not in lumber as such, but in lumber products, and therefore, he does not come under the classification of lumber dealer. The Act as presently set up, it leaves so much room for so many arguments, that the intent of the Act, if I may make this observation, seems to be that in 1904, the lumber dealer had a yard and he had a fence around it somewhere near the railway tracks; he had logs that he cut into lumber and if you wanted a piece of lumber, he would dress it for you and maybe send it up to your house by horse and wagon. And as the supply receded, as we got such items as galvanized iron, tentest and gypsum board and those materials that are so processed that they are a good substitute for lumber; we have plywood and we have arborite and we have pre-finished floor tile of the mastic type as well as prefinished lumber and so on; so that it's just a matter of fastening it to the building. These substitutes are finding quite a lot of space in the store or warehouse of the merchant who is selling builder's supplies and who is in competition with the lumber dealer. And there is a builder's supplies dealer in most communities who is competing with the lumber dealer. Now as the prefinished materials became the mode for the day, the ladies started to shop-they had something to say about what was being used in the kitchens; I know in our own company, the female traffic has developed tremendously in the last ten or twelve years, which has necessitated a type of store that the lumber dealer simply wouldnt think of twenty-five years ago or thirty years ago or forty years ago or fifty-eight years ago, at the time this statute was written; with the result that the lumber dealer finds himself in fairly expensive real estate, with fairly extensive facilities in terms of store and warehouses, and he's still being taxed on the premise that he is not carrying full responsibility as he was thought to be undertaking when he had just a little shed, the plot of ground with the fence.

His program is a retailing one and he is paying substantially higher, especially in the area where the assessment rate is say 25% for the average merchant but 50% for the lumber dealer dealing in five branches of the retail trade.

MR BECKETT: Your whole argument is that the business has changed.

MR WAGNER: That's right, Mr Chairman. And too, the \$20,000 becomes a little bit of a problem to the assessor; he does apply it and you get into a great big wrangle as to what actually constitutes a branch of the retail trade, and here again we have a transitory situation as to what does constitute a branch of the retail trade. We have hardware stores that are selling plywood and galvanized iron. We have builder's supply stores that are selling almost everything except raw 2X4's or shiplap which is a very minimum item in today's market.

MR BECKETT: Any Members of the Committee like to ask Mr Wagner some questions?

MR EVANS: We've pretty well discussed this before and heard a great deal on business tax.

MR BECKETT: The Committee have had very many Briefs on business tax- not on this subject- it is very interesting this decision...where he says:-"It then remains to come to a decision as to when and where the term "lumber" should cease to be used, and the term "manufactured wood products" commence to be used.

MR MORROW: I might ask, Mr Chairman, about the future of this business and the trend...what is it going to be ten years from now.

COL GRIESINGER: I think there'll be more substitutes, and these will become more and more used...

MR COWLING: And less and less lumber.

COL GRIESINGER: Yes; we may see that to some extent.

MR COWLING: Yes and as it develops, the words "lumber merchant or lumber dealer" which is pretty much of a misnomer now will continue to become more so.

MR BECKETT: You don't manufacture?

MR EVANS: Do you manufacture windows?

COL GRIESINGER: We retail them.

MR WAGNER: There's one other element indicative of future developments we were talking about just yesterday; take a situation in Toronto. The walls of a house must be made of masonry, so the lumber dealer says:- well we can sell the wood joists and the roof framing, and I believe a roof framing is being developed to be merchandised by component developers that will frame a roof truss, in other words, you have the rafters and you have the joists and the components units; and these units are purchased in small bits no longer than 6" or 7" long; other pieces are 24" long and they come directly from the factory either from British Columbia or Northern Ontario and they're handled by Halliday's and Precision Built and so on and they manufacture them I would sell any Member of this Committee a house, I would send an order to any of these people to have delivered so many roof parts for such and such a house, and the dimensions are so much and this is the trend today....

MR MORROW: Just like a carburetor.

MR WAGNER: Exactly. And the lumber dealer, he doesn't see his material any longer; so often it's shipped from the factory to the customer. (chit chat re changes)

MR COWLING: You don't have the same problem with knots that you used to have?

MR WAGNER: Well I think the problem is there- not maybe the same. (discusses grades in lumber) You have your studs cut directly at the factory and packaged- you know they are 96 $\frac{1}{2}$ or 92 $\frac{1}{2}$ right to the 1/16th of an inch; and we don't get a chance to get into this because there is someone sitting on the outside of town nearer to the railway track that caters to the man who is building. We have to have more costly facilities and give more and more service; it's a different kind of merchandising- a retail type of merchandising and the word "lumber" is having less and less place.

COL GRIESINGER: We could call it Home Improvement.

MR COWLING: And save 15%.

COL GRIESINGER: That's right.

MR COWLING: Well, Mr Chairman, I think we'll certainly have to take a long look at this thing and give real consideration to it in our recommendations to the Legislature.

MR BECKETT: There's no doubt about that. Col Griesinger, do you have anything to add?

COL GRIESINGER: No, I haven't, Sir; all I want to say is we appreciate your courtesy and the opportunity to appear before you; I know most of you...

MR COWLING: You've been to some of these Committees before that we had.

COL GRIESINGER: Yes. But we do appreciate the opportunity of being here this morning and we will hope you will think favourably on it.

MR BECKETT: We do appreciate your coming. And Mr Prowse and Mr Boake, would you like to add anything? (no) Well your business, Gentlemen, has changed a great deal since 1904.

COL GRIESINGER: Yes indeed it has.

MR BECKETT: We will certainly take that into consideration. Thank you very much for coming, and if you have anything further you think of, please send it along to us.

MR WAGNER: Thank you, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-FOURTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
JULY 12th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J. A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer
Thomas D. Thomas

APPEARANCE:

H.G. Webster
Elwood Free
Lea Marshall
Roy Gildner

PRESENTATION:

BRIEF - THE ONTARIO CREAMERYMENS' ASSOCIATION

THE ONTARIO CREAMERYMEN'S ASSOCIATIONHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Well, Gentlemen, we have with us this afternoon the Ontario Creamerymen's Association. Mr Webster, would you like to introduce your delegation to the Committee.

MR WEBSTER: Mr Chairman and Gentlemen, our delegation to day consists of our President, Mr Elwood Free from Sunderland, who operates an independent creamery; Mr Roy Gildner from New Dundee, Manager of the New Dundee Co-operative Creamery with branches at New Dundee, and Parkhill; Mr Lea Marshall from Jarvis, and who has been in the creamery and dairy business for some 60 years-he's older than he looks. (laughter) Now Mr Chairman, our Brief is fairly lengthy and I presume it has recently been reviewed by your Committee-I don't think we should take the time inasmuch as it might take 45 minutes to read it, but I think if I go over it and build up the background and then maybe read some of it...if that meets with your approval.

MR BECKETT: That's fine.

MR WEBSTER: We addressed this Brief, which was formerly presented to the Hon Mr Warrender in December, 1959; we again presented it without any change on September 15th, with the exception that I called your attention in September, 1961 to the fact that we have declined from 190 creameries to 165; my count today, which may be subject to some error, but I think it is now 158. There will be a few more close up their business before a great while. Now I think we should go on now to the Summary on page 11, which is a supplemental summary...possibly we should go back and read the original summary, and then follow with this one, that is the original Summary on page 9 and follow through to page 11 and then base our discussion from that point. (reads, page 9 Summary) "In summarizing....interpretation." (end of 2) I might add that since that was written, there has been a court case based on a number of court cases, such as flour milling and so on, and the court decided that it had to be classed as manufacturing; and we are not going to take too much exception to it,

except that cheese is being in the same class. (continues, page 9, 3)
 "The creamery business.....60% business assessment." I should add
 the words "in most cases". (continues) "5. The small municipalities
 need to... to accomplish this." (page 10 end of 9) And I might add
 sometimes it is to our sorrow that we put ourselves in that position,
 but competition has done it. Now we will go on to our supplemental
 summary.

MR EVANS: Mr Chairman, to Mr Webster, you say
 in #4 (reads 4) Why is this?

MR WEBSTER: I am thinking probably of two or three
 creameries that are located in cities where they have facilities to
 clean off their snow off the streets; where they are provided with
 water services at a nominal rate, and where there is waste disposal;
 and where the capital costs of waste disposal and water services are
 covered by general taxation, not passed directly back to the creamery.
 That is what I have in mind there; and where there are maybe special
 services given. But we have very few creameries located in the cities.

MR THOMAS: Well, Mr Chairman, I cant see for the
 life of me why there should be any difference between the cheese man-
 ufacturer and the creamery manufacturer; they're both producing a pro-
 duct from milk; why should there be a difference between a cheese man-
 ufacturer and a creamery? Why should the one pay 25% and the other
 pay 60%? There does seem to be some basis for objection on that?

MR MORROW: This is one of those anomalies that
 came about a long time ago.

MR WEBSTER: I might say that at one time, as far as
 we can find out, practically all creameries were 25%; and even up until
 quite recently until we had the county system of assessment; and at
 that time it was felt, if not to some extent before, that creameries
 should be manufacturing and assessed accordingly. Now that's the prob-
 lem in our mind; I asked the Minister of the Government here on one occ-
 asion, I said was there any reason for it? Oh, he said, you ought to
 be old enough to know that in Ontario, cheese factories are sacred.

MR MORROW: In 1904, it was pretty well the place
 where all the milk was sold at that time...not too much today.

MR WEBSTER: Well that is the situation; this thing has grown up for the want of specific study; for the want of specific application. Incidentally, I might add that the large percentage of cheese factories today pay no business tax whatever...possibly this has been brought to your attention; when a cheese factory is owned by a farmer, where they hire a cheesemaker and retain ownership of the cheese and appoint a salesman to sell it, it pays no business tax at all under Ontario statutes; because it has been tried in court on quite a number of occasions and on each occasion, where the 25% tax was applied, it had to be withdrawn, because it was made on non-commercial property.

MR MORROW: Mr Chairman, did I understand Mr Webster say there was a case....a court case handed down with regard to the assessment of creameries?

MR WEBSTER: Yes, in Haldimand County, roughly a year ago- as a matter of fact, I've got the judgment with me...Judge Kinnear made the judgment and well, we did go in and discuss the situation, and in the light of other judgments- a number of other types of manufacturing, of course it was pretty hard to draw a line and say what was manufacturing. We argued that it wasn't manufacturing because you can take butter, wash the salt from it; and you can take milk powder and bring it back into milk; first add water and then your butter fat and bring it back to a very respectable milk. Now that was just trying to find a technicality that this was just a temporary change, but not really changing into anything else. And to bring out the point that you couldn't, under any circumstances, ever bring cheese back to look like milk.

MR COWLING: Why can't you do it with cheese?

MR WEBSTER: That's impossible. You move quite a number of your constituents in the form of whey, minerals and so on, sugar; you cook it and you completely change it...change the state of your protein, and it is just simply impossible, because it is a different type of product entirely.

MR BECKETT: You have the judgment with you?

MR WEBSTER: Yes (gives it to Chairman)

MR BECKETT: You've read this, no doubt.

MR WEBSTER: Yes, but about a year and a half ago.
this reviews the types of buildings used...

MR BECKETT: What did he find....he must have found something. (chit chat)

MR WEBSTER: They used also tobacco as another example where you really dont change the...dont manufacture, and the judgment was based on whether it was manufacturing or whether it wasnt, and several court cases were used, and I think there were one or two on saw milling and the manufacture of tires-the fact that you dont change the rubber in the process of manufacturing; and the case before the judge was really, is it manufacturing or is it not; if it's manufacturing, then it was covered under the 60%; and if it wasnt manufacturing, it was covered under the 25%. So that is the essence of it, and in the opinion of that court, it is considered manufacturing based on judgments...for the making of flour etc, so we couldnt raise too much objection to the judgment of that court. There was one other court case in Ottawa, the Dominion Dairies vs the City; but actually the judgment on whether it was manufacturing or not didnt take place really because we agreed there before the court that it was probably manufacturing and the question there was what portion of the plant should be assessed in the given category. Those were the only two cases that I know of; and there are apparently no cases on cheese. Now our Supplemental Summary (reads, page 11) "We have made a careful our written presentation." (page 12, end of Brief)

MR COWLING: Mr Chairman, Mr Webster has made references several time to the fact that the creameries are becoming less in number and so on...before we leave that, I'm a city man, why is that? Why arent there more creameries? We're using more creamery products, arent we as the province is growing; why are they getting less?

MR WEBSTER: We are getting less largely because... well there are two factors, one is that the larger units seem to be more efficient in manufacturing; that's fine to a point but when we get our creameries too far apart, then what you gain in efficiency in the plant, you lose in the procurement of transportation of the

cream. Another factor is the shift of the cream producer in farm separated cream to milk production, and the selling this milk to milk manufacturing plants, which in turn manufacture mostly butter from the fats, also powdered milk, condensed skim milk etc. We had a turn from the wheel of fortune in which there is a great demand from exports or from domestic, for many types of milk products; and they pay 10 or 15 or 20¢ per hundred more for milk; and that is sufficient to convince a man to shift over-that's part of our problem.

MR COWLING: They're not going out of business, then they're moving into another sphere.

MR WEBSTER: There's a certain amount of centralization but the creameries themselves practically all have just ceased operation; and they cease operation usually at a point when they come to replacement of equipment. The churn gives out and represents several thousands of dollars of investment or the pasteurizer gives out, and that's from \$2,000 to \$4,000; and there is no longer margin. I was talking to a man the other day and he plans to go out of it this fall, and I said:-Are you going to sell it? He said:- There is nothing to sell and I wouldn't wish it onto anybody else because no man could replace my equipment and make a living.

MR BECKETT: Where will the people go?

MR WEBSTER: They will go a distance of 15 or 20 miles to another creamery. Now we don't think there is enough to be gained by making a few large creameries; what they gain to quite an extent, they lose by longer hauls. And there will be a tendency to, as the years go by, to the small cream producer to deliver to the local creamery himself rather than taking small quantities longer distances.

MR THOMAS: One of the problems of the industry, I suppose would be the disposal of the waste products, wouldn't it?

MR WEBSTER: Well not a great deal in creameries. The amount of buttermilk is usually small enough to be fairly readily disposed of to the local farmers for hog food; a few of our larger creameries have outlets for their buttermilk; it is not by any means

the problem experienced in the disposal of whey; as we can't dump it in the waterways.

MR COWLING: Well then there is a problem if it gets into the water, is that it?

MR WEBSTER: Very definitely the problem that we mentioned; they don't even like us putting the wash water into the open streams. And most of our creameries are located in smaller centres, not too many of which have waste disposal systems; and the Water Resources Commission have several inspectors on the road, and they inspect every creamery, and they take samples at any point where effluent is entering any streams, and if it is too high in organic matter, then they report it and I would say that probably 50% to 60% of all our remaining creameries that didn't have waste disposal units, have already installed them, and the rest are under pretty close surveillance and it is almost a foregone conclusion that before a certain date, they must set up a satisfactory and appropriate system.

MR COWLING: Well that's another expense they're facing.

MR WEBSTER: That is an expense and we'll be honest about it; nobody was happy about dumping whey, but from the standpoint of economy of operation, it was all right. The creameries are not fooling themselves that they are being persecuted; they're just unhappy about it because it costs a lot of money; and it's a new expense to the industry-an industry that has worked on a more or less fixed margin. The well established plan that we pay the producer for his cream the same price as we sell the butter fat in the form of butter, because of the fact that we add 15% moisture to bring the very desirable type of butter, and this 15% moisture margin covers our operating costs. And it is very very difficult to shift the margin any other way than standard traditional method used for about 75 years. Incidentally, we have two other problems that maybe we have partially wished on ourselves; we thought that all butter should be graded and about 70% of the butter was graded voluntarily; but it is now compulsory to have all butter graded in the churn. It costs the creamery operators in Ontario a very considerable figure-we made a survey of over 50% of the

creameries, between \$40,000 and \$50,000 simply to buy boxes, buy butter liners, pay extra for cartage or take it yourself to a grading station, leave it there for three weeks while it's graded and bring it back, take it out of the box, cut it down into lbs of butter. We also have to pay the charges of the grading stations of 15¢ to 25¢ a box. And when you start figuring it out, we have possibly 50,000, 60,000, 70,000 churnings in Ontario, and it soon adds up. Now this year, another thing that nobody thinks much about-maybe we're better off because of it; maybe not. The Federal Government put a 12¢ producer...so-called producer-actually consumer subsidy-on butter. We sell our butter at 52¢-53¢...whatever we can get for it; in that regard some goes as low as 49¢. We bill the Federal Government for 12¢ a lb. Now that requires the Federal Government to check all the figures and send us back the money. We have to borrow on this money, and it will cost the creameries between \$40,000 and \$60,000 in Ontario to finance the money we borrow from the bank to pay for the cream while we wait for the Government to send us the subsidy. Now I might say that some of us have been pressing that the Government at Ottawa give us credit on this; I was speaking to a man the other day and he has \$23,000 tied up in subsidy payment on his products. So you see \$50,000 here and \$50,000 there, and that's divided among 150 creameries. So you can see how quickly our profit evaporates and there is nothing left for replacement of worn-out equipment.

MR BECKETT: Is all your butter sold to one source?

MR WEBSTER: No, we sell as individuals all butter directly to buyers, dealers and so on. We sell a certain amount through brokers; there are some half dozen brokers; they charge 25¢ a hundred or 1¢ per lb; and we simply consign our butter and they have worked up a clientele over the years, and they know pretty well where they can sell the butter. Surplus butter in the summer season beyond the immediate needs of the trade, the government buys and places it in storage. We sell it to the Government at 52¢ a lb, FOB storage for 40 score butter; 51¢ FOB storage for 39 score. Most of our butter is 39 score; you usually see butter in the stores at 57¢ and 58¢, the 58¢ butter is supposed to be 40 score and the 57¢ is 39 score. There is no brokerage

charges on what we sell to the government, but we have to put it up in a more expensive box; we have to have the salt 3% maximum and put double carton liners in the boxes whereas for immediate trade, we use a box with single liners and the salt runs about $3\frac{1}{4}\%$ maximum.

MR COWLING: Has the sale of margarine cutting into your butter business?

MR WEBSTER: Very definitely, yes. At one time we sold as high as 315,000,000 lbs of butter; now, our per capita sales have dropped down very very fast; because of the expansion in our population, our total sales have not dropped quite so fast; I believe our sales are around 270,000,000 - 280,000,000 at the present time. So we are not too far behind on total sales, but away down per capita sales. Now in 1961, we 've had a very great expansion in the dairy industry in the total milk production; unfortunately for our butter situation, the government will buy the butter and for the last two or three years, they wouldnt buy anything else that they didnt have any market for, the result being that everybody put their surplus fat into something they could sell readily which happened to be butter, and our production in 1961 went up to about 352,000,000 greatly piling up our surplus. But our present subsidy on butter is, we believe, selling a greater amount of butter, but not enough to overcome the difference between production and local demand.

MR COWLING: Would it make much difference in the sale of butter if the margarine were coloured?

MR WEBSTER: Yes, it has proven so in the United States that people desire the colour of butter; and I have a Plymouth and I tried awfully hard to make it look like a Cadillac, but it isnt.

MR FREE: They shouldnt have our colour; they can colour it blue or green if they want to, but yellow is our colour.

MR WEBSTER: It's a prestige item, we believe to serve butter. And everybody wants to serve what they believe is a top quality, top price item.

MR GORDON: Do you use an artificial colouring in butter?

MR WEBSTER: Butter is coloured artificially during off-pasture seasons.

MR GORDON: Do you have a patent on that? (no) How can you then say that yellow is your colour?

MR WEBSTER: The chief argument is, it is the natural colour of butter on pasture- a so-called golden yellow, what we call #3 on the Hansen scale colour chart; and when the butter manufacturers on winter feed need to add colour, they add a little colour to bring it up to the normal butter colour. We like to think it is our natural, normal colour, and of course, for very particular economic reasons, we wish to guard it. (chit-chat re creamery in Brantford)

MR GORDON: It does seem rather odd that the cheese manufacturers pay 25% and the creameries 60%; there is no justice in that.

MR WEBSTER: Now I didn't check too many cheese factories; but any I checked pay either 25% or nothing for the reason I explained to you a while back, the reason that has been upheld by the courts. Now Mr Young owns a cheese factory but he can't do it; as a matter of fact he pays 60% on his cheese factory...and we still have creameries, as was pointed out in our Brief, paying 25%, and one man for the first time paid 60% this year-in Simcoe County- he was the last creamery in the county not on 60%, and the reason was that the council said that our business tax in the village is 25% for everything; so he was 25%. But the County Assessor followed this up and he is now paying 60%.

MR COWLING: What actual difference would it make in dollars and cents to the man who was increased from 25% to 60%? Would it be \$50 or \$100 or \$25 or what?

MR WEBSTER: I would say that a lot of our creameries- our small creameries- are probably \$400, and you could take 35% of that- that's the basic assessment. I believe the difference would be about \$1600; is that right, Roy?

MR GILDNER: Well our total tax bill is \$4600; it has been \$4800 and with the school assessment this year, it will be

up to \$4800 at the end of this year; our business tax will be about \$1800 and the difference would be about \$1000.

MR WEBSTER: Now 25% would give him back about \$1000; Mr Gildner has just had to spend over \$25,000 for a waste disposal, and over the years he has spent about \$25,000 to dig wells and pump in water; his village is not even incorporated and in an unincorporated village you have no more services than you get in any township; but they do put on the tax without supplying any services.

MR BECKETT: Gentlemen, do you have any more questions?

MR TAYLOR: Basically this problem is one of classification.

MR WEBSTER: I think basically we were educated to the point where we paid 25%; and we've done a lot of complaining over the years when it was shoved up to 60% at the same time when all our other costs were going up. We cannot see the point where it should be different from other enterprises in the dairy industry, namely the processors and the cheese factories and dairies; in the long run, a dairy is as much a manufacturer as we are. They homogenize the milk and they pasteurize it and make it into 2% and make it into chocolate milk and cottage cheese; they make skim milk out of it; how can you separate them-manufacturing or processing. It's all really the same thing.

MR TAYLOR: I notice you comment where some municipalities...the assessment seems fair, and in those cases there isn't any complaint even though they are paying 60%.

MR WEBSTER: I have one plant in mind and that is a town which has a 60% business tax. I think I pointed out it's the only manufacturing plant of any considerable size in that town, employing probably 60 family heads, and it has developed from practically nothing since 1942; and it is of more value to have 60 employees in that small town earning a living right there, than a few hundred or a thousand dollars more taxes. They're going to get it back on the houses and every place else. And I happen to know that the assessment-the total tax is not as much as some other places that have a 25%

business tax and a higher comparable assessment rate.

MR TAYLOR: So that 60% and a lower assessment is more satisfactory.

MR WEBSTER: Well any of these creameries that have associated businesses with them, for example milk powder, one creamery in six is still able to survive on a straight creamery business. They are all practically associated with a dairy, with a locker service, for storing meats; they are all associated with these things in order to survive. Another case- an assessor went into a dairy and said:- Now how much of your business is dairy, how much is creamery? He said I have to assess this place and if over half of it is creamery, I'm supposed to charge 60%; but if over half of it is dairy, then I can, if I wish to use my judgment, let you go at 25%. Which is it? The owner said: I'm quite sure that over half is milk; and the assessor said:-Well that's fine, but mind you, if I look at your books and find out it's the other way- fluid milk- I've got to charge you 60%. Now the assessors are doing their best and a number of our creameries are paying what we think is a fair tax; but we have others that say my business is to call it a plant, and my business is to measure every square foot and if the ceilings are extra high to put it on a footage basis instead of a floor basis. My business is to raise taxes for the county, and that's it. And since we put in our first Brief, 42 creameries are out of business.

MR THOMAS: Mr Chairman, I think it's a very reasonable request; I think the Committee should have a good look at this one anyway, dont you think so? I cant see much difference between a cheese manufacturer and a creamery.

MR BECKETT: But it couldnt be the difference in the percentage of the business tax that's putting the creameries out of business.

MR WEBSTER: It's part-it all helps; if you have to put up \$1000 or \$2000 to get a new pipe, there comes a point in your business, does it pay you to go on or had I better quit? Now if you have been paying more in taxes for the last five or ten years than you should have, and this wears out and that starts coming on, I

wont promise anybody that a change in the tax will keep all the creameries in business, because it wont any more than if you took the tax off all together; maybe in some cases it's mismanagement; maybe it's a change in agriculture; but as an association, we're out to do what we can for our plants in the rural areas, the plants that are really serving the rural area-the de-centralized plants that serve the village. Every time there's a creamery in a village, we bring in 100-200 people to that village to do business and when they start moving away, the point of contact and business is not only lost but the creamery and the employment. I frankly cant understand the attitude that some municipalities have taken in this business tax; but I can understand it when the assessor walked into the office and said: If your business is more fluid milk than creamery, I can charge you 25%; he didnt want to put the tax up; he wanted that creamery in that municipality.

MR GORDON: He wanted the dollars and cents or did he want the product he handled?

MR WEBSTER: There's three ways you can base it-I havent studied the manual too closely; you can base it on the dollars and cents value of the plant; you can base it on the floor space or you can base it on the labour; it all depends on the type of operation. If raw material costs nothing, you have to base it on labour.

MR BECKETT: How do you feel about the basis of the system of business assessment?

MR WEBSTER: The system you mean or the principle of the business tax? Well if I followed the thinking of some I have discussed it with, I just wonder if there should be a business tax at all-if it shouldnt be income tax. And then a man runs into hard times and loses a big part of his business-I can think of one up in Simcoe county in that position and if it had been income tax... but it's very difficult to get a tax that is fair and meets the needs of the individual and meets the needs of the community, the municipality. But the business tax, as I pointed out here as Mr Frost said, where they got those percentages, I couldnt even guess. There is no standard.

that you apply certain percentages to certain businesses and lower percentages to other businesses.

MR BECKETT: That's what the distillers said- 150% to them and a different percentage to the breweries; then you would feel that the basis should be on the volume of business?

MR WEBSTER: Not necessarily on the volume of business but if I were in the position of this...of someone who had to bring in an alternative, I would turn over in my mind if there was any form of tax that could be used, and that of course would be on profit; I know it's very difficult but we cant have municipalities without enterprises and if the tax is such that it discourages enterprise, then the municipality, irregardless of what the regulations may say, the municipalities in some instances are overtaxing the local businesses and bring on depressions themselves. I have talked to some who have said to their municipalities:- What would you like to have, somebody supply water etc at a nominal cost and take the sewage away and the waste from the dairy industry with no particular charge for it and have a little higher business tax; or do you want to provide the water etc yourself and pay a lower business tax. Certainly, they say, we'll pay for it in a higher business tax, but we dont expect to pay for services that we are providing for ourselves. I went to one town last winter and went to the creamery and had to climb up over a big snow bank to get in. And the owner said:- What kind of service do I get; they haul all the snow away in front of the stores, shovel it off the side walks, charge it up to the tax payer and they bring the snow plow down here and plough it up against my front door, and I've got to bring a shovel to get in in the morning, and I pay 60% and the fellow up town is paying 35%.

MR BECKETT: Well Mr Webster, would any members of your delegation like to say a word or make any comment.

MR FREE: I havent too much to say to add to what Mr Webster has already said; you have all the facts and figures; but our main point is we would like to be on an equal basis with the rest of the industry, the cheese factory for example or with the store. I know in our particular case, we have garbage collection and we pay for

it; we have a water system and we pay for it. Now we dont mind paying for the services we are getting, but we dont feel it is right to pay this 60% and also provide all of our services or most of our services too.

MR GILDNER: I have one thing to add, Mr Chairman; it is also unfair competition with the cheese factories. We're paying 60% business tax and the cheese factories, some of them are paying 25%, and some are not paying any, yet they are competing with us on the producer market; in that way it is unfair competition. Again, we're in an unincorporated village; there are no services. We've got to pump our own water; we have to supply a waste disposal program that costs something over \$25,000; we have to pump the waste a mile. Now we have to pay the taxes and we're not receiving any benefit at all.

MR FREE: I'd like to add one more word; I actually saw their waste operation this summer and it's really something. They put in a pipe a mile long to carry off their waste...

MR BECKETT: To what outlet?

MR FREE: It is spread over fields and it is sprayed in the summer time-in winter it is too cold to spray.

MR WEBSTER: Then too we must return to the point; we dont feel it should all be 60%; we're not suggesting by comparing with cheese factories that they should be increased, but that we should be decreased.

MR BECKETT: You have to get your water from wells?
(yes) Bored wells?

Mr GILDNER: Drilled wells-we have five drilled wells three around the 60 ft level, and two 200 ft level and they are used for cooling purposes. (describes Kitchener drawing from area)

MR BECKETT: Water is quite a problem in this area.

MR MARSHALL: Yes, and it is quite a problem for most of us.

MR WEBSTER: I must say that one of the plants say they cannot process dairy products any longer because of sulphur in the water- Park Hill-there was a creamery operation for a number of

years, but it's such a problem over water that they had to discontinue processing there because of this sulphur in the water.

MR THOMAS: Well that problem must have presented itself over the years- why should it catch up on them now?

MR WEBSTER: They're more particular about the water.

MR BECKETT: Well, Mr Webster, you present a pretty good case for adjustment or the same treatment throughout the industry.

MR WEBSTER: Yes, and for a long time we had the same treatment. I tried to find out from a number of places, when did the tax go up; and to be honest about it, some people do not realize what the difference really is. And as I pointed out in the Brief, I asked two fellows what their tax was, and they told me, one in particular said, 60% business assessment. And I worked it out in plain ordinary arithmetic and it came to about 35%. And I worked it out three times and it's still 35%. Now if that happened to be the township assessor who put 60% on and then worked it out to 35%. And my contention is that if the County Assessor looked at it, it was 60%, he wouldn't go to the trouble, as I did, to work it out and prove just what it was. They do work assessments in round numbers and they get slight variations in figures between 58% and 61%.

MR TAYLOR: Mr Chairman, we had a similar problem with the lumber dealers in the matter of classifications; here is a similar situation, are they processors, manufacturers or retailers. I think it's a question of a more specific definition.

MR MARSHALL: Mr Chairman, do you not find that the mill rate in the majority of the municipalities....the businesses in the majority of municipalities pay a higher rate than other classes?

MR TAYLOR: The business rate.... oh, on your assessments the mill rate is higher.

MR MARSHALL: That has been our experience.

MR WEBSTER: Well it is the tendency on the assessment on business property, unfortunately, to a large extent, is based on rental value...

MR BECKETT: Well actual value.

MR WEBSTER: Well actual value or rental value.

MR BECKETT: There are several methods.

MR THOMAS: Are you not allowed to deduct your local taxes in industry for income tax purposes? (oh, yes) Well then the residential people are not allowed to do that. I think that is one of several reasons why there is a difference in the mill rates.

MR BECKETT: Well, Gentlemen, I want to thank you on behalf of the Committee for coming.

MR WEBSTER: Well Mr Chairman, in our Brief, we have enumerated all along the line what we think and we feel it covers fairly well our points. We would be happy to be back under the original interpretation which is 25% business taxes. Our creamery owners are small town and village business men, most of whom serve on their local councils and they realize that the taxes have to come from some where, and they want to pay their fair share. Now if there is any additional information of any kind, why we'd be happy to try to obtain it for you. Thank you for your courtesy today.

MR FREE: Thank you very much for this opportunity.

MR BECKETT: Thank you very much.

LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-FOURTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT

AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

FRIDAY,
JULY 13th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

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MRS E. EATON

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Solicitor

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Thomas D. Thomas

APPEARANCE:

H. E. Manning, Q.C. - Assessment Act Consultant
J. M. Blackwell - Observer

PRESENTATION:

DISCUSSION OF ASSESSMENT ACT

MR H. E. MANNING, Q.C.

HOLLIS E. BECKETT, Q.C., CHAIRMAN

MR BECKETT: Well Mr Manning, we are happy to have you with us this morning. And we are ready to hear further, your thoughts on the various Acts that we are considering.

MR MANNING: Thank you, Mr Chairman. I would like to take advantage of what has been said just now in respect to legislation-there is one thing that often troubles me in legislation of a general character that is brought forward by the Department-it seems to me that amendments to the statutes, such as the Planning Act or the Assessment Act, there would be a great deal of advantage to the public at any rate, if a considerable amount of time were allotted to people who had interests and who would be affected by the legislation, to study and make representation on them. I am thinking of two episodes which concerned litigation in which I was involved; one had to do with pollution of the Thames River at Woodstock and I recovered damages and an injunction requiring the City of Woodstock to rectify the effects of the sewage disposal within twelve months; and a similar judgment was obtained at Richmone Hill for polluting the Don River. The Legislature came along not very long afterwards without any notice to the litigants or taking any notice of any rights they had acquired by court order, abolished this and therefore rendered null the remedial relief that the litigants had acquired by court order under another statute. I can think of another situation where I was involved in litigation with a citizen of the municipality of North York over a situation of a road in subdivision agreements. The decision had been rendered and it was the subject of an appeal when without more I think than a hour to.....a Section was introduced into the Planning Act validating all subdivision agreements heretofore made without regard to the backlog of litigation. And I dont think the realisms of litigation ever were discussed; I think also some amendments which were put through in 1956 following the decision of the Olympia Company...I'll have something to say about that or what remains of that legislation. So I

mention that in passing. Then I take it that what would be the most useful to the Committee at the moment is to discuss the Brief of the Associn Ontario as it relates to the Gas and Petroleum Association. I dont think I want to say very much about that beyond observing that it makes a great many points and it may not achieve a very great deal that's useful...some of them perhaps only to be trying to put another point of view of what the tax base ought to be; and it is really not a matter in which anyone is very much concerned except the Legislature itself. Now may I discuss those aspects which seemed to the Association to do some harm and not do any useful thing. First of all when we come to the Section with respect to Business assessment, we find on page 9 of the Brief, under the heading subsection 5, the suggestion that subsection 5 be deleted....now subsection 5 of 9, there is something that disturbs me greatly is as follows: No person is to be assessed in respect to any business under more than one of the columns in subsection 5 of 9; in other words, if a man carries on two or three kinds of business on the one premises, he is not to be assessed in respect to two or three kinds of businesses, but only for one of those kinds. Now it is proposed that a substitute for that provision where any person carries on more than one type of business on the same premises, the property for business assessment purposes shall be broken down and each portion shall be assessed for business assessment at the rate utilized in respect to the respective business. Now that could mean that Consumers' Gas Company would have to work out some kind of a distribution of its premises between the retail business that's carried on and the general business of the company and the same would be true in regard to Imperial Oil; and if I might carry it to a further one, I recently had some litigation in St Catharines in respect to Towers Marts, in which there were some 18 or 20 different concessions owned by concessionaires, each doing a different kind of business. Now the trial judge didnt agree with me on the subject that ...and held that Towers carried on one operation, but there were on those premises, a drug store, a hardware store, a tabacconist shop, a cosmetic shop, a piece goods shop, a ladies wear shop, shoes, men's wear, children's

wear. If that subsection 5 were put in there, each one of those would have to be the subject of a separate business assessment, that is if and assuming the trial judge is correct in his conclusions. I cant discuss them more intelligently, but I point out that proposal, if it were adopted, would only add to the complications without deleting anything that would be helpful. Then I come to discuss next the proposal with respect to Section 35. I dont know that there's very much in Section 35 that would affect these particular people; but I do suggest that however desirable it is to find some standard year to which to refer the assessment of buildings, 1960 is probably one of the most inflationary years we have seen...the ideal has always been, as I understand it, has been to keep the assessment figures with respect to both land and buildings well within the fair margin of the peaks which might be expected; because there is no such thing as an identical market for real property, sometimes it can be developed for \$50,000 and sometimes for \$10,000. The idea has always been to keep as far as possible to what could be the normal value. I dont know how to suggest a particular year that would be satisfactory. Off hand one would take the year not much later than 1950 and that would be safer than 1960 because we dont seem to be headed for a great deal of prosperity in the immediate future. I have been through several depressions and I shudder at the idea of anything quite that serious; and anything like a recession like there was in 1912-14 and 1907

MR COWLING: That's far enough to go back (laughter)

MR BECKETT: Just while you're there...we've had several Briefs, Mr Manning, and they suggest present market value, market value- a term that has been used over the years the same as actual value.

MR MANNING: They're only running around in circles; attempting to use different kinds of words to express the same idea; it seems to me perhaps the weakness in all this business is mainly there is no appellate jurisdiction that can enforce a uniform principle of taxation-I'd like to talk about that on some other aspects of the thing when I get to discussing some ideas I had of my own which arent related to this Brief. But I do accept this, that a manual system of valuation

of buildings probably would produce a state of greater fairness in rat-ability if three conditions are met, first of all, that there be an adequate flexibility in regard to the depreciation allowances to be made; some buildings that are allowed to get out of condition...secondly if there be adequate allowances for wear and tear, which is really only another aspect of the same thing; and finally, if there is adequate provision for what I call built-in obsolescence- the unsuitability of the building for the particular purpose and the particular place; it could have to do with economic conditions generally; it could have to do with overdevelopment of the site; it could have to do with over expensive development, such as the development in a case in Montreal where very, very expensive features were adopted and they didnt contribute anything to the utility of the building, and the courts right up to the Privy Council accepted the idea that the excessive investment should not be the subject of the increased assessment. Well the basic concept of the quality of ratability of the assessment of buildings.. now when we come to discuss some other suggestions of the term "rental values"...that this term should be defined, I confess, myself, to some difficulty. It seems to me that rental value is a fairly well understood thing-it means what you can get out of the property; and there isnt any use trying to put into more explicit words what you can and cannot take into consideration in rental value, because as sure as fate you'll make a mistake, and you'll exclude something that ought not to be excluded. As to the suggestion with regard to subsection 3 of 35, that has to do with

MR BECKETT: Before you leave the other, Mr Manning, in the City of London Brief, it says this:- "It is respectfully submitted that if the department manual costs are based on a specific year - that is the Department of Municipal Affairs Manual- then Section 35 should be amended to conform with values set out therein."

MR MANNING: I appreciate what is aimed at there; I dont believe that although the Minister may publish things like the Manual, there is any legal or binding effect to the Manual which could be enforced by the courts.

MR SINGER: Presently no, but dont you think it's a good idea.

MR MANNING: I think it would be a good idea, yes, with the reservations I made about adequate provision for obsolescence and things like that. I agree.

MR BECKETT: You'd have to use that language then.

MR MANNING: You'd have to put it specifically into your Act, yes. What formula you would use, I dont know. After all, it seems to me the most useful thing one can do in a Committee is not to discuss the details of language-that's a draftsman's problem and is best ironed out sitting down with Legislative Counsel; what one should aim at is to arrive at some concept of the proper emphasis; and I wouldnt challenge that-once upon a time I was very much afraid of the Manual concept of valuation; I dont feel that fear now. But I am very concerned about what will happen if we get a severe depression resulting in throwing quite a number of properties into economic turmoil; what would happen if there were bankruptcies, for instance, in respect to buildings that werent adequately rented. Something ought to be done and I dont believe that legislation ought ever to discourage the idea that people have to pay municipal taxes or else. If there were ever an ideal system of municipal taxation evolved, I think it would abolish tax sales; because if the property is not good enough to enable the owner to pay his taxes, and not valuable enough to enable him to rescue it from a tax sale, surely the taxes are too large on the property. It is almost a self-evident proposition. I dont know what the answers are but.....well it's an ideal we can try to achieve.

MR BECKETT: Well here's another suggestion they also make:- "Any Manual issued by the Department of Municipal Affairs on costs, should be on a regional basis to recognize the difference in costs in various parts of the Province."

MR MANNING: I wonder how it works out; it seems to me that regional divergencies in costs are not at all acute....

MR BECKETT: Not sufficient.

MR MANNING: Not sufficiently acute to justify it.

MR MORROW: Dont you think there are great differences between Northern Ontario and Toronto?

MR MANNING: No doubt there are differences, but are they really significant? If my observation of Northern Ontario is correct, very exhaustive, the major construction operations in the North country has to do with mining or power development facilities, which are exemptions. Now I doubt very much if any cost manual can tell you how to assess the plant of a power company-I think of one in Sault Ste Marie, for instance. There arent enough of them to make it worth while trying to evolve a special code; most of the power development facilities are operated by the Hydro. Outside of mining what do you find? Do you find any engineering developments of importance? I dont think so. And so far as residential construction is concerned, I dont think there would be so great a divergence there.

MR MORROW: I was thinking of buildings, for example, the divergence in rates of pay-labour costs and materials.

MR MANNING: Maybe so, I dont know.

MR COWLING: They build on the rock in Sudbury as compared with the sand in the east end of Toronto.

MR MANNING: I just dont know enough about it to offer any suggestion, but my observation in casually passing through, I would have thought not. Mr Blackwell could probably tell you quite a little bit about it because he knows a lot about that North Country; he's been studying the situations in the communities, but I dont know.

MR MORROW: Can you build a house as cheaply up there as down here.

MR BLACKWELL: I wouldnt think so although lumber actually is cheaper up in that part of the country and labour is cheaper--well in some parts of the country, but in other parts it costs money.

MR COWLING: Well I know in the Sudbury area, if you start to take out a foundation as compared with other places, it's just fantastic-it's solid rock, and before you even start to build the house, it costs you a lot of money. (chit chat re Sudbury)

MR MANNING: Now there is a suggestion in a subsect-

4 of 35 which draws attention to...well the residual phrase:-"the value of the buildings shall be the amount by which the value of the land is thereby increased." And the comment is that the words are redundant to the subsection. With great respect to the gentlemen who make that criticism, it seems to be they're the very heart of the subsection. The attention which is slanted to various things, such as present use, location, cost of replacement, rental value and so on, are only intended to be leads to find out what the increase in the value of the land by reason of the buildings is and nothing else; and if you were to read the words without that final qualification, I think you might have even more divergent views in the subsection than you have at the present time; and I don't think that would be desirable. I don't think I've got anything else to say there in matters of detail of these proposals, but the one thing I think I should like to come back to is rental value ought not to be the particular rental experience of the particular owner in respect of a property; there is as much difference in the effectiveness and the energy with which one owner is able to secure tenants for his property as against another owner as there is between a competent mechanic and a tinker; and why there should be any concern with what the most competent owner is able to do with his property, either in getting as nearly complete occupancy as is possible, or in getting a higher scale of rents than somebody else doesn't seem to me to be the subject of discussion for tax purposes; I may be wrong but it seems to me like trying to assess a store on the basis of the success of the merchant in selling a great volume of goods. Take Honest Ed's on Bloor Street for example; I suppose his volume is enormous but I wouldn't say the premises are very valuable. Now you find a similar thing in regard to the renting of buildings. I don't think there's any doubt of that. The mere reputation of being kind to tenants, considerate of their requirements, has a lot to do with the success of your operation; and why should a definition, the term "rental value" be desirable. I think it is unnecessary. I'm afraid that rental value is an abstract concept. Then the proposals with respect to Sections 40 and 41 are, of course, recognized. They are markedly at variance with the proposals of the Gas and Petroleum Ass-

ociation. Our thought is that these proposals the assessors put on would only compound the difficulties which were outlined in the Brief. How, for example could anybody implement the requirements of this proposed new subsection 6 of Section 40:- "On or before the 31st day of March in every year, persons or companies carrying on business under this Section shall notify the Clerk or the Assessment Commissioner of each local municipality of all assessable property owned by such person or company which is located in the municipality, and particularly the length and so on..." Well, I don't know what that means; why emphasize valves, meters, stocks, regulators, services and that sort of thing. If the concept of the Gas and Petroleum Association members is correct, you don't count pieces of equipment; you don't count pieces of metal, nor particular devices in the municipality. You look at the pipeline and you say:- Well it doesn't matter whether this pipeline or bit of pipeline cost ten times that piece of pipeline; it's not worth a penny more, because it only functions as part of an operation; and the pieces ought not to be a particular cost and the mere accident that the valves and regulators maybe perhaps in a municipality; or perhaps not in a municipality but in an adjacent municipality, has nothing at all to do with the integration of the system. We think, therefore, that there ought to be a standard of assessment based upon the linear measurement, and as we put it, on the footing of the of Section 41, and of the provisions for equalization if the standard of valuation in respect of other buildings doesn't coincide with the standard of Section 41. That brings us that Manual question with regard to the assessment of buildings generally. Well when we have.... perhaps I should say before we leave Section 40, we don't see at all, with the development of the business of distributing gas particularly, over large numbers of municipalities, it can constantly be effective to have assessed the portion of those properties in each separate municipality as an integral part of the whole property. It's suggested in this Brief that that subsection should be deleted because the assessor has no knowledge of another municipality's assessments. With great respect, I don't think that is what subsection 3 does. It doesn't

talk about assessments in other municipalities; it says that the part in each municipality is to be separately assessed as its value as an integral part of the whole property. Now I don't know how you can ever determine that. You measure it out by so many feet of such and such pipeline, and you assign it out by saying: Well, this one for distributing gas in Swansea isn't very prosperous, but it must be prosperous in Forest Hill, so therefore the integral relationship of the Swansea establishment has nothing at all to do with the footage. If anybody were buying and saying, Well I'll buy so much of the business and I won't pay over such and such unit price; and I'll take Forest Hill and I won't take Swansea. I'm using these names because I happen to be familiar with this area; other municipalities may have somewhat divergent patterns of wealth. Well now can the assessor determine that? No. Therefore the assessors say they want to delete it. Well what will they substitute? Nothing at all that I can find, except some arbitrary concept that each particular assessor may have. Now if justice is to be done, there must be some pattern upon which the assessment can be parcelled out and we think the scheme of Section 41 is therefore the only thing that will work where a utility operates. Under Section 40, true a considerable number of municipalities...take a concern like Consumers' Gas Company, which has distribution facilities, not only throughout the Metropolitan Toronto complex, but a number of eastern municipalities. How do you determine this? Do you let each assessor work at it by himself? I don't know. And how could he work it out? He could go through...I remember the very painful discussions we had with the City of Toronto and the Corporation Counsel over appeals from the assessment of the Consumers' Gas Company. We spent some days examining for discovery; there were any number of requisitions for information about what one particular valve or what a particular installation on streets cost in some particular case, and when you got through, you didn't have anything, and in the end as you may remember, it may have been last week, the Committee was informed that Consumers' Gas and the City of Toronto had now been able to come to terms on the same basis as the Long Branch decision; so all that

wasted effort- it was wasted effort. Now you have the same thing contemplated, I think, in these proposals, if accepted. Then we come to the proposals in Section 41; and here I think it's quite clear that the assessors want to ..very much to magnify the worth of the transmission company. They want, for example, to strike out valves, regulators, couplings. Now those are necessary because of the size of the system, and would not be necessary if you werent bringing in gas from remote points.

MR THOMAS: Mr Manning, I would like to ask a question; the assessment is on the pipe line; now I wonder if they would regard the whole line something like...well here we have two pipe lines regulated all along...controls. Does that mean the total length of the whole line or just the pipe line itself?

MR MANNING: The total length of the line-correct me if I am wrong- but it is the total footage...among other things the system of Metropolitan Toronto is considerably greater because there are different sizes of pipe- I think I mentioned it- the bringing up of moisture in order to use it in the system- all of those things are... the pipe allowance in both systems and the various adapting devices to adapt it. Now if I understand it...this condition...I'm not sure there is any real change...but if there is it wont be a change in the transmission companies because I dont see any reason for having it.

MR BECKETT: I might explain for Mr Thomas that the definition in Section 41 of the pipeline includes all those valves and couplings; that's the definition.

MR MANNING: Then the proposal as to subsection 2 is quite insidious. Transmission pipelines are pipelines owned by persons or companies whose primary business is the transmission of gas or oil. Well now there isnt as far as I have been able to be informed ...except for oh, a couple of companies who bring crews down through the States or so, whose primary business is the transmission of oil. As I understand it the oil transmission is done by Imperial Oil and this is not its primary business, which is refining and distributing oil-it's primary business is not the transmission of oil- so that would cut that off. It's there for no reason that I can see but to

find more taxes, but not for any reason or uniformity. Now the Consumers' Gas Company could probably be said to have a primary business of distribution of gas, but it has an immense amount of transmission pipelines, and they have been singled out for different kinds of taxation; and they wouldn't be if the policies of the assessing officers were uniform, and unless you can distinguish the operation of a line... distinguish between the operation in metropolitan centres, and they couldn't do that quite simply, and there would be other complications, and legal technicalities, it would not get them down to the perspective in transmission lines of the rates under Section 41; is there any reason for that? I confess I can't see one. I believe the same thing to be true of the Union Gas Company. But now it will be a very simple matter for either company, from the mere technical point of view of their corporate structure, from the financing and debenture problems... why that should be isn't clear to me. You have another problem in the metropolitan area, which is after all, population-wise is bigger than most of the provinces of Canada...

MR BECKETT: Just while you're at that, I'd like to read to you, Mr Manning, what Mr Wilson had to say. He says:- "Sir, we feel at the present time, so far as transmission lines are concerned, and this is our own particular feeling, that they are not being assessed in the same manner as other property in the Assessment Act. Here we have a special type of assessment, in fact, a fixed assessment set on pipe lines, and the only other place that I know of now in the Act, and the various Acts that we have got on fixed assessment on property is the Bell Telephone in regard to their percentage-what they are assessed."

MR MANNING: Well, I would have said that there were others and I think we've discussed the railways for example, the power commission lines- that's two that partake of the same general category. The Bell Telephone is a very special kind of operation, and it is one that changes a great deal more than the other utilities; it requires more frequent reconstruction and access to its properties. I think I can go down University Avenue almost any day and find a Bell Telephone truck working and the men sorting out new lines. There might

be some reason for the difference of treatment there, but I think there is every reason for singling out some kinds of enterprise; certainly historically there are reasons, and giving them special treatment of taxation. After all, these people are utilities; they aren't the same as other kinds of people; when they operate utilities, they have to serve, as well as just have the right to serve. And the company has to pay it. Well then, I am going to suggest that in the metropolitan area, there has been, I believe, for some considerable time a good deal of debate between the Metropolitan Assessment Authorities and the Gas Companies as to how far the devices by which gas is carried to the stepping down points, if I might call it that, how far those lines should be called transmission lines. There's a great deal of reason for thinking that they should be in the same category as transmission lines...

MR EVANS: All lines should be called transmission lines?

MR MANNING: Well, I can't see the logic or the good common sense....

MR EVANS: That's what they really are though.

MR MANNING: That's what they're doing.

MR EVANS: The only difference is that one is under lower pressure...

MR MANNING: That's right. And in other words, there wouldn't be any kind of pattern that you could say: - look at this, this is the proper pattern. There are many patterns of assessment as there are assessors, unless some of them got together and agreed it was too much trouble to work out each his own system. For instance we have the interesting matter that Mr O'Connor gave us of the Union Gas Company's experience in the municipalities. Well then, obviously subsection 2 would be very seriously discriminatory, and I don't understand discrimination to be the thing that is desirable. Then we get down to the proposals of subsection 5, revised rates to realistic value or the legal... 5 is the one that sets out the assessment by foot.... yes... all I can say is that these assessments represent something that was actual at one time; they represent a standard which is higher in relation to

the investment than the standard, for example, for the assessment of railways, very much higher; and it's in relation to a utility. Now there can be as many arguments about utilities as there are people, and I cant give you any answer that is more useful than this, because in our way of thinking, there is no reason for putting us on any different plane in relation to a cost factor than there is for putting... to a standard, ~~than~~ ~~there~~ is for putting everybody else in that relation. Bear in mind that these figures relate to a calculation of costs which is in one of the Manuals, and which is in a higher ratio of the standard of the costs and the formula for calculating the costs...the value of other kinds of improvements on property. Now I dont suppose there's any great reason why everybody's scaled to a different pattern. That should not be done because you preserve your ratability. What's wanted really is some way of distributing fairly and equally.

MR BECKETT: We had Mr Wilson tell us, Mr Manning, that the rate on the distribution line was higher than on the transmission line.

MR MANNING: I dont know where he would find that. That may be the practice, and it may result in what Mr Plummer said, it may be the practice and I think London was one of the places where he said they had worked out their own plan of assessment; and if that were so, that would be a correct statement. There isnt any rate on distribution lines.

MR BECKETT: No, but actual value.

MR MANNING: Oh, if you are assessing other people at actual value, well and good, but you arent in most municipalities. Let's take some examples; I think this is one of the sore spots. In this metropolitan area, I'll venture to say that anybody who has to do with a substantial number of real estate transactions would recognize this as being very close to the mark; that houses very seldom sell for less than at least three times their assessment amount. Now is that actual value? Why talk about actual value on the real estate of a utility then? I just dont know what the answers are, but you can talk so many ways to arrive at conclusions which are faulty, when you dont

look at all the surrounding circumstances.

MR BECKETT: Now Mr Manning, we have here in your Brief, township A and township B and township C-you remember Mr Singer, you asked some questions on that, but you didnt name the townships, and you said, of course, township C is 70%; township E is 84% and township G is \$1.24.

MR MANNING: Well I think the assessment officers themsleves recognized some difficulties of that sort in the same submission and I want to comment on that shortly, but what I'm trying to get back at is that unless there is some pattern established, we dont see any end to the cumbersome struggle we're going to have to have to get some sort of ratability; and we think there is a simpler way of doing it. I dont know, Mr Blackwell, has your association yet identified the municipalities which were set out in one or two of the schedules?

MR BLACKWELL: No, we have been working on it right now.

MR MANNING: If that information could be ready as soon as possible, I'm sure the Committee would like to have it.

MR BECKETT: We would indeed appreciate it.

MR MANNING: I dont know what else I can say about that. I've no doubt you'll find those divergencies in relation to a particular diameter of pipe; you'll find a very great difference in the assessments; you'll find a very great difference in the ratio of the assessments of other properties to any particular standard. Well then we get down to their recommendation in respect to subsection 7, and they point out that subsection 7 says that a pipeline installed in 1940 or any subsequent year shall be assessed for taxation at the rate set forth in subsection 5, with no allowance for depreciation. And they suggest that that subsection should be repealed and there should be something like this, - "the valuation for assessment shall be adjusted so that the value year used for pipeline ratings is equalized with the value year used in assessing other types of property." Now I dont quite know what that means; I dont know how you equalize a value year, but I think they're aiming at exactly the same thing..

the same point as the Gas and Petroleum Association was aiming at in suggesting that there should be a scaling down of the assessment arrived at to coincide with the equalization factor determined by the Department of Municipal Affairs; and then we've added another suggestion that there might be dissatisfaction with that, and there could be equalization appeals. Now I think these gentlemen are aiming at the same thing that we're aiming at-to find all assessments with improvements based on the same rate of assessment; and if that were so, there wouldn't be the same number of disputes. I don't mean anything else, but I do think there might be a more adequate way of getting at it. Now I see they have some suggestions with respect to Section 43 -that is the one that deals with similar utilities when operated for a municipality by a commission. Oddly enough, what the Assessors want, they really want to revert to a form in which these Sections stood in and prior to 1944; because it's more recently only, that a special category was set up for commissions; and the idea was formulated that somehow or other commissions had the same kind of right to immunity from taxation that the Crown has been held to have. So therefore the Act was changed to make it seem more like a governmental function when a utility was operated by a municipal commission. All I can say is that the assessors don't seem to like that form; it doesn't seem to achieve any different result and I often wondered why it was introduced; but there it is. I've got no criticism to offer one way or the other, but only to point out that there are many municipal commissions that are involved in problems that we're involved in-one pattern for transmission lines and another pattern for...or no pattern at all except the objective of trying to find the elusive thing called actual value on the distribution system. The only other criticism I think that's been suggested to me has to do with the mechanics of the assessment appeal. On page 26, there's a suggested amendment of Section 216, that's the one that requires information be kept confidential. That brings up an interesting story to me because in one of the complicated assessment appeals we had, I had to find out on what basis the Metropolitan Commissioner had arrived at his conclusions. And I was told

that was confidential information. And I see going with this, there cant be anything confidential in a public function which relates to my business-my business; I'm entitled to know what you've dont about my business. It's only to protect me that you're not going to tell me what you've done about my affairs, and on the invitation of the present Chairman of the Municipal Board, we launched a motion for discovery against the City of Toronto to find out what they've done. I think the City was very much startled when we got our order for production and discovery; and then I went back and I said:- Now how do you find out what the value of this building is, and they show~~d~~ me an immense book-I think about 125 pages- with numerous columns in which some hard working member of the staff had tried to ~~gas~~ what size of beam and what thickness of slabs of concrete was used in making every single thing in the whole building. And they had worked on a bill of quantities against which they had scaled... a scale of quantities that they had arrived at; and when I said where do you arrive at these figures, they said: Well we just got them. How did you get them? Well we just got them. And I couldnt find out how they got them, but that was the bible. And against each one of these quantities they dealt with the number of dollars and worked out a grand total of what the building must have cost. Well, it is interesting to learn and that having worked in one assessment appeal, the City turned around and turned the tables on Consumers' Gas and wanted similar information from Consumers' Gas that we got from the City of Toronto. But it just couldnt be done and it bogged down and then they settled it. But what seems to me might usefully be done would be to create a specific right to examine for discovery-at least in the county or district court-and have the right so there wouldnt be any argument about it. Where there is something that is confidential....

MR BECKETT: Just those two tribunals?

MR MANNING: Yes. I dont see how it could be made useful for a court of revision. I think I can remember only one important appeal where this could be useful. (chitchat and laughter re cases) Now those are all the things that I had in mind to say on bchalf of the Gas and Petroleum Association. I'm sorry I havent had

the opportunity of reading this presentation- the transcript of this presentation- may I ask this? Was there a Brief put in, in answer to the Gas and Petroleum Association Brief, or is all the material in this document? Or is there another document?

MRS ROWAN: Everything is in there and there is no other document-that's the only one.

MR MANNING: Well what we can do is consider this and see if there is anything we ought to say about it.

MR BECKETT: Mr Manning would you mind-we have some questions...there has been a matter discussed about some course in which...in other words, a university course for assessors because assessing to the Committee is the most important part of municipal law-it affects practically everybody across the province, and should the assessors perhaps have to take a course to fit them for the purpose of assessing? And should that come under the control of the Department of Municipal Affairs to a certain extent....

MR MANNING: As to qualifications, for example and capacity?

MR BECKETT: That's right.

MR MANNING: Well I think it would be quite desirable to do this if it is economically possible, because I can imagine a large number of the smaller municipalities where they just couldn't afford that kind of a system.

MR BECKETT: But then the Department of Municipal Affairs would have authority to recognize that.

MR MANNING: Yes, I see some advantages in such a thing; in fact didn't the University of Toronto here some years ago attempt to carry on some Extension Courses-some lectures? Didn't they organize such a school?

MR BECKETT: I think there were members of the Department of Municipal Affairs took those courses.

MR MANNING: I think there were some assessors there too; I remember talking on two or three occasions to them, but that must be 15 or 20 years ago.

MR BECKETT: Yes, I think it is even more than that

I think maybe back in the '30's. Well then the next step might be that they would be licensed by the Department.

MR MANNING: There is some kind of an attempt to provide something like a degree for the people who are experienced assessors, isn't there?

MR THOMAS: Oh, I suppose they're trying to do something like that as a protection for themselves.

MR MANNING: Yes, I think they are anxious-maybe it is something about the tenure of office.

MR BECKETT: Mr Manning, we have had a resolution from a local council about parking lots in shopping plazas should pay business tax.

MR MANNING: I was in one of those cases for the City of Hamilton, as a matter of fact, in which it was held that the parking lot which continued to be owned and serviced so far as it needed any servicing at all by the owner of the shopping plaza, if you want to call it that; it was not subject to business assessment by the owner of the property, because he didn't carry on any business on that lot; and it wasn't rented by any of the lessees-it was different, in other words, from the situation that existed in respect to Dominion Stores in a recent decision of the Court of Appeal; and they, therefore were not occupiers and were not assessable for business assessment. So nobody was assessable for business assessment on the very large acreage which carried, I think, a basic assessment of around \$47,000 an acre. And there were certain reasons for this; it might be disadvantageous for the city to win an appeal on this. I thought they could succeed in reversing the trial judgment, but what the consequences of reversing the trial judgment was necessary as to who carried on a business might dislocate the most important part of the assessment rolls of Hamilton. And they probably would lose as much in taxes as they'd lose if they had to dislocate the job of assessment. I don't know what the answer is. I don't know whether business assessment is an ideal assessment anyway.

MR MORROW: The assessors admitted that the little fellow in his parking lot has to pay it and the shopping plaza doesn't;

and it doesn't seem quite right-the plazas get it in rent, doubtless.

MR MANNING: I think there is a great deal of justification for the small man, but I wonder how you're going to work it out.

MR MORROW: Could it not be parcelled out and allocated to the lessees, so that each store in the plaza had so many parking spaces in the plaza on the basis of their rent.

MR MANNING: No, they claim that it is worked into their rent, but there is nothing that can be proved.

MR MORROW: But they are sure that the parking is part and parcel of their rent.

MR MANNING: Well I know...any intelligent person knows that but it causes a problem. You know it is part of their rent but how can you do it; if you allocate it out, for example, on the assumption that the use of the parking area is commensurate with the retail selling area; if you did for example, in some of the shopping centres, the largest of the spaces occupied in the stores is occupied by the furniture and the groceries stores, but it wouldn't be the customers of the furniture stores to say the least, that would need the largest amount of parking space; I just don't know how you'd work it out.

MR BECKETT: When the City of Toronto...Metro discussed it, their problem was that it increased the value of land...the land in shopping plazas is of great value.

MR MORROW: What they wanted was some basis to determine the assessment. Every year there are more of them.

MR BECKETT: It's an attempt of the municipalities to get more revenue; they also suggested that apartment buildings be charged a business tax.

MR MANNING: I don't see why.

MR SINGER: You don't see why; why not? They're in business the same as anybody else, aren't they?

MR MANNING: Let's put it this way; any cost that is placed on the owner or the developer of the apartment building is going to be passed on to the occupier, if it can be passed on; if

it cant be passed on, it will discourage building accommodation. The owner will pass it on to the occupier; now why should the occupier, who already pays a portion of his rent in taxation, have to pay this business tax which is passed on by the man who owns the building? Why should he have to do it? I cant see it.

MR SINGER: Why should the consumer who purchases his groceries from the shop have to pay business tax and have to...

MR MANNING: I dont know.

MR SINGER: If we didnt have it at all....

MR MANNING: Which I think might be a better way; but your consumer is a little different. True all taxes are in the end price the consumer pays, but it is distributed over a lot of small sales and it is the same in every business. But when you come to rental accommodation the tenant has to pay; when you come to owner occupied accommodation, of course the owner pays for what he gets. Why should anyone pay more for getting the same kind of housing than the other? But a business tax put upon apartments, the man who does not own the apartment will be paying more than the man who rents a house. It seems to me to be illogical.

MR SINGER: Is it illogical to put a business tax upon a hotel?

MR MANNING: Well, the only difference in a hotel is whether it is a residential hotel; there are a good many considerations.

MR COWLING: Are you still sold on the idea, Mr Chairman that apartments should pay business tax?

MR BECKETT: No.

MR MORROW: Then the people will have to pay more for their housing.

MR SINGER: Well if you're going to collect taxes from any source, somebody is going to have to pay more-that's no excuse. If somebody pays less then somebody is going to have to pay more.

MR COWLING: I think we're only jumping about; if I had some money to invest, and I buy an apartment, I would only buy the

apartment to make money for me. Now I might invest that money in the shoe business, but I'm investing it in the shoe business to make profit for me, and for no other reason; sure I will provide people with shoes but I want a fair return on the money I have invested. Well I'm not just sold on the idea, but the person who pays the business tax purchases a product to make a profit for me. It does seem pretty much the same category that the apartment house is to make a profit for me. I know it sounds a little different when we talk about shoes and clothes and then come to talk about accommodation, but basically, is there any difference in buying shoes and in buying accommodation?

MR MANNING: But why should a man pay for the right ...why shouldnt he pay for the right to occupy his own house...pay business tax?

MR SINGER: He's not running it as a business, is he?

MR MANNING: No, his is residential and the occupier of the apartment is residential; I think we should take a careful look ...a careful study of assessment figures, I think one would find that when it comes to accommodation- residential accommodation and measuring it against known construction costs of the present day, the actual assessments of buildings where there are apartments are much higher than the assessment of residences; now what is the answer? I dont know and none of us know the answer. I suspect that whatever you'd get out of the taxes of this proposal, the raising of the assessment to whatever you call actual value goes up...goes up pretty much.

MR SINGER: It's not supposed to.

MR MANNING: I agree it's not supposed to but I suspect it does. Now this is an unscientific observation and only a careful study would give the answer.

MR BECKETT: Mr Manning, we have another thing, is there any justification for the poll tax?

MR MANNING: I think there might be a heck of a lot of justification for it but is it practical?

MR MORROW: These single females are getting a free

ride. (laughter)

MR MANNING: How would you work such a tax; would it be on something other than the qualification of the ratepayer to vote on money by-laws?

MR BECKETT: Well there might be some disqualification there...we would have to study that.

M. MANNING: Well as far as I understand it...this poll tax, they have been almost abandoned in a great many municipalities-indeed they have been abandoned in a great many municipalities; they never raised a very substantial amount and I rather fancy that the collection of them was pretty unprofitable.

MR BECKETT: Except the City of Brantford, it's quite profitable.

MR MANNING: Good. Well I don't see any reason why there shouldn't be such a tax in theory at least, because I don't think people should have dry votes in municipal elections without paying taxes.

MR BECKETT: And have the right to elect a Council; and in that theoretical way, 100% of the members of the council may be non-tax payers altogether.

MR SINGER: Well, maybe not taxed in that way; they might pay business tax.

MR MANNING: Well, discussions about the incidence of taxation runs to endless volumes, and I don't know of anybody who can give any definite answers because I doubt very much if you can get any conclusions at all without making some assumptions. For example, I suppose in the long run it must be that tenants pay something in the way of tax, but how much they pay or how little they pay, I think is completely incapable of demonstration. I daresay the scale of rents for commercial rents is higher than if we didn't have any land taxes; but how much higher, I don't know.

MR EVANS: Well, tenants pay taxes definitely.

MR MANNING: Well, sometimes I'd say yes, and sometimes I'd say you just can't say. I can think of one builder for example where the taxes were so high it was impossible to get a tenant.

And why, because if a tenant want in, he would immediately have to pay taxes...business taxes based upon the assessed value.

MR THOMAS: That would be an exception, wouldnt it?

MR MANNING: Oh yes it would be an exception undoubtedly, but it can happen; but all I was trying to point up was that the tenant does pay the taxes in some cases. (stories re 1937)

MR EVANS: I think the tenants pay all the taxes.

MR MORROW: Well I dont agree; there are these houses of multiple occupancy with five or six families in one house.

MR COWLING: Mr Chairman, while we're asking Mr Manning questions-he's a man with long experience in municipal affairs, maybe he'd like to express a view on the workings of the Committee-I know he has read our terms of reference. There has been some criticism about the pace at which we're going about this task of studying the Municipal Act and the related Acts; I just wonder if you had a part in what we are attempting to do, how long you think it might take to do this job?

MR MANNING: I wouldnt like to offer a guess. When I think how long it took me to get out a book on municipal taxation; it took all the time I could spare for five years; and I worked about 40-50 hours a week for five years. I couldnt give any predictable period.

MR BECKETT: And that was the Assessment Act only?

MR MANNING: Yes, that's right.

MR COWLING: You know how the Committee has been operating; do you have any suggestions as to how to expedite the work of the Committee?

MR MANNING: After all the only way you can concentrate and discover the problems is to sit down and hear them and discuss them individually; the pen is no substitute for the expression of opinion.

MR BECKETT: That's exactly what the Committee has been doing and that takes time. It's slow-it takes time.

MR MANNING: Mr Chairman, there are some things

which might be considered if you had some time (discussion re time)

MR COWLING: Well let's hear some part of it.

MR BECKETT: Fine. Please continue, Mr Manning.

MR MANNING: Some months ago, when I was first informed about this Committee being set up, I expressed the hope that perhaps I could come and offer some criticisms of my own on the Assessment Act; I think a good many of them have arisen in litigation at one time or another. I will try to avoid offering any criticism of detail. I haven't, for example, attempted to go over point by point this Brief of the Municipal Assessment Officers. I would disagree with a great many questions of detail; but I think they're only questions of detail and of draftsmanship and not questions of major principle and I don't think it will serve any useful purpose to discuss questions of draftsmanship here. In passing, then, I point out that there has been, I believe largely because of the failure to get a thorough discussion before legislation is brought into the House, a good many faulty bits of draftsmanship results. I think, for example that the decisions that have now become most frequent, that things that are merely placed upon land-are assessable as land- I can think of the tragic cases...I was in the Northern Broadcasting Company action against the District of in which a moveable and rather expendable transformer and transmitter were held to be land, even though they weren't fixtures. I've always thought that the interpretation of that definition of land as involving erected or placed upon it, in under land, as meaning something other than a fixture, led to the most impossible vagueness, of which there will be no resolving the problem at all. For example, I'll wager that the City of Toronto does not assess the showcases and the counters that they have in any of the stores downtown. Applying ^{mock trial} mockdry to those situations, they haven't got any right not to do it; but if it is actual, it would so pyramid your assessments, that you would never get to the end of what you were going to tax. If things placed upon land are land, then the furnishings in your house are land. Now I've persuaded two out of five judges that that not only was the popular way of ass

isting the assessors, but it has given rise to all kinds of problems. Here is laundrymat machinery being held to be land, in recent times; you've got the very variable bowling lanes in so-called bowling academies; you've got pin setters which are only rapidly used up equipment being deemed to be land and being assessed as land. I don't want to overamplify...I haven't checked with all the decisions in recent times, but I think that's carrying it too far; and that arises out of the definition. And we have a rather expensive piece of litigation that went to the Supreme Court of Canada on one of the transportation systems arising out of this; all because of the rather cavalier way of making a change in the Act without realizing what complications there might be from that change. Well then, I come to another one of the same general type, Section 34, which replaces in a much more wordy form the Section which used to be in the Act, that says:—"A ^{fee} person occupying lands and the ^{fief} of which is in the Crown, other wise than in an official capacity, shall be assessed, and so on... Now in order to find somebody who occupies land, the ^{fief} of which is vested in the Crown, and make him taxable, there has to be rent or any valuable consideration paid. That means that a squatter—I don't know whether there are any now or not—there haven't been any cases on it in Ontario for quite a while; a squatter on Crown lands would escape taxation. Somebody who is occupying Crown lands without any title or right, without any interference, but who didn't pay rent or a valuable consideration, would not be taxable under the law. And I can tell you there is at the present time pending a lawsuit which will build into one of several cases if it goes through, in which very, very important and expensive installations on lands which were at one time believed to belong to the ^{common right} Crown in right of Ontario, and have since been accepted by the ^{common right} Crown in right of Ontario as belonging to the ^{common right} Crown in right of Canada. And a very definite challenge is being made to the right to assess that at all. I'm not a bit sure that this Section 34 may not have changed now...may not have created some pretty serious problems in municipalities. I don't think there ever was any need to change that "occupying in an official capacity"

and I had to cut my eye-teeth in the Court of Appeal on an official capacity case, oddly enough about 40 years ago. I don't care what kind of legislation you have, there will always be something to start a lawsuit about, but I wonder if it is necessary to change the statute. Now we come to Section 35. Owing among other things, to the consistent refusal of the Court of Appeal to discuss any matter of valuation, if there was any shred of evidence, however lacking and persuasive to justify what the tribunals had done, there has not, as far as I have been able to find in the reports, been a successful appeal on a principle of valuation in Ontario in the last 60 years. Now there must have been 30 million assessments made in that period of time anyway; and it's not conceivable that there haven't been some very serious errors in principle in at least many of them; because you think you see something wrong in the basis of approach in many of them, but not one of them ever got to the Court of Appeal to be rectified. So as far as the expositions of the principle of valuation are concerned, the only place where you can catch that is the expression of views of a Superior Court Judge in Canada is somewhere outside the Province of Ontario where the most important developments take place. And that means that there isn't going to be any uniformity of approach to the principle of valuation. Well I see... I was jotting down these notes, I had the hardihood to say that it was well known that the assessments of residential property in Toronto were generally no more than a third of the actual market price; yet assessments of modern apartments and office buildings are sometimes higher than their economic value. I say sometimes, not all because I don't want to be understood to say that there is lack of effort to put them on a proper footing. But I do think there are wide discrepancies. Now that brings us into the thing I wanted to talk about to see if there isn't some way of bringing it about. Section 72, subsection 16 invites the assessment to be put, part of which says in the Court of Revision:- "The Court may in determining the value at which any land may be assessed, have reference to the value at which similar land in the vicinity is assessed" and Section 82...I'm sorry I have the old Act with me and I can't give you the exact reference,

in the present statute, but the idea is, anyway, that all the assessment appeal tribunals have the right in coming to the value of a particular property, to look at the assessment of properties in the vicinity to see whether they're comparable. It is argued, though, that that right involves a duty, and the tax payer can insist on the performance of that duty; but it seems to me it ought to be made more emphatic, and not only part of the duty of the assessment tribunal, but a duty which the tax payer himself can enforce. Now this has been known to happen. A tax payer appeals from an assessment on the grounds that he's assessed for about all he can get out of the property, and he points out that his neighbours are assessed for only a third of that amount and somebody is assessed for only half of that amount. And he goes to the Court of Appeal to establish that fact, that I'm assessed at a ratio in relation to my value out of line with everybody else, and I want only justice and get mine down to the same scale. His appeal is dismissed. Why? Because he hasn't proved that he is assessed for more than the actual value of his property. There was some evidence that the property was worth that much and the Court of Appeal won't consider anything else at all. Now that doesn't strike me as desirable or fair, and I know I've talked a good many times about it, and I've talked about this to Members of the Municipal Board and to the Minister of Municipal Affairs and so on; I can't commit them to anything or say that they expressed any view, but I think that there ought to be some kind of way of getting an appeal before the courts of law on that question of ratability. They were trying to create one for the pipeline companies by having an equalization appeal; but there ought to be some way of doing justice, and it isn't practical to do justice by putting the tax payer to the expense of taking his case by subpoenaing of 15 other people who aren't assessed on the same scale, but that's the only way now, and it is not practical.

MR BECKETT:

Mr Manning, I'd like to read the recommendation of this California Law Revision Commission to their Legislature in dealing with comparable property, and they say this:-
 "opinions as to the value of comparable property should be excluded

from consideration in determining the value of property, subject to condemnation (which of course is condemnation) on the principle of remoteness, because their consideration will require the determination and many other collateral questions involving the weight to be given such opinions, which will unduly prolong the trial of condemnation cases. Opinion evidence on value should be confined to the opinion of the value of the property being taken."

MR MANNING: Of course you're dealing there with expropriation...

MR BECKETT: Yes I know there is this other angle to it.

MR MANNING: Yes. With an expropriation, you've got a different concept, if you have a concept of awarding to a man the sum of money which he would rather pay than lose his property-it's a very different mode of trying to find a way of dealing fairly with people, because particular people...may have their special reasons for value. In the expropriation rules, so called, they have rejected in very emphatic terms the assessment end; but I would agree with that on an expropriation matter where I wouldn't agree with it on an assessment matter; because you see you don't get into quite that kind of elements that you're thinking of in assessment.

MR BECKETT: On an assessment appeal, even when the Act says that an assessor may do that, well has the assessor taken in all considerations, the value of that comparable property and thoroughly examined it and gone over the detail-that might be a weakness in our system.

MR MANNING: Well this particularly if the Manual system of assessment were adopted, it would not be difficult, of course, because you would have an objective appeal of value which you don't have here. And again one can speak only to the ideas which go through his head; I would not have anticipated any kind of remoteness demonstration as the California Committee visited the expropriation...that is if it were an assessment appeal. The California demonstration in similarity is much easier than it would be in expropriation. Well, I see no reason why such an appeal mightn't

be made subject to limiting factors, for instance, the necessity for getting leave; or perhaps the necessity for having a minimum amount involved, or possibly some question of security. But then we come to another thing, and that is the Amendments of 1956, which were said to be necessary to overcome difficulties created by the decision in the Olympia case. Those difficulties, if I may say so, were only a demonstration once more of what happens; it has always been the law in Canada, especially in Ontario, that mainly no assessment could ever by confirming an assessment, prevent the tax payer from proving that he was not taxed, either because he didn't own the property or because it was exempt from taxation; or to put it in another way, that it wasn't in the category made subject to taxation. In those cases, there was always held to be ^{a not} annulled. Now I mentioned the fiction about the Court of Appeal having original jurisdiction designed to get around part of the Olympia thing which was very very severely criticized, and finally abandoned by the Legislature; but another thing came in, and that is what is known as Section 88-it's prototype came in in 1956, and this is what Section 88 says:- "No action or other proceeding, except an action or other proceeding from, by, or on behalf of a municipality for the collection of arrears of taxes shall be brought in any court with respect to an assessment or taxes based thereon, (a) except within 60 days after date on which the roll is required by law to be returned, and so on ... (b) where a complaint in respect to the assessment is made to the Court of Revision and accepted within the time for appealing and so on..." Now the very basis, and I happen to be the person that started all this, this chain of troubles by raising the issue of forms back in 1950, and bringing it to the attention to the courts forcibly that the Assessment Act could not be made use of to force a tax payer who said he wasn't taxable to go to the Assessment Tribunal; for example, if a man isn't subject to business assessment, if he is assessed for business assessment, he can stand back and say-he could stand back and say: I'm not taxable, so your assessment is nothing and I'm not going to pay. I mean he could resist, and that's now something, which according to this

Section, he can do only if he does it within 60 days of the date when the roll is to be returned, or if he has appealed to some other tribunal within the limit of time...now the other tribunals on the unqualified authorities have no jurisdiction at all to try that so why should he appeal to them, and why should he have his right to say he is not a taxable person conditioned upon whether he puts his hands together and makes his prayer to a tribunal that has no power to deal with it, and on which the Municipal Board said they would have nothing to do with it-they wont hear him, and yet, from that situation, he may appeal and the Municipal Board says we've got nothing at all to do with it-we wont hear your evidence; he's got theoretically a right of appeal to the Court of Appeal, if he takes that appeal he cannot raise the issue somewhere else ever again. Now all that is putting an obstacle in the way of the tax payer in having justice done to him which never did exist at any time since Confederation, but was put in the way of the taxpayer in 1956. Now there are two ways of approaching this thing. The language of this Section is not unlike that of Section 189 and 190 to prohibit actions to attax sale, except in the treatment, it appears in its entirety. "Those prohibitions have been held by the courts not to operate at all if there never were in fact any taxes due." Now the whole basis of taking an action or other proceedings against an assessment is an assessment made without lawful right, without jurisdiction or something; it's a nullity, and yet it says that you may not defend an action brought against you by saying this is a nullity -it's an illegal and prohibited act; nor may you have that act set aside unless you take the steps within 60 days or whatever the number of days it may be. But you may not know anything about this; you may not have been advised that your rights are so and so. I have a case on this before Court of Appeal now, so I wont elaborate on it for that reason. A Court of Revision in a local municipality in the District of Muskoka, knowing that there was a great deal of dissatisfaction amongst the local taxpayers where a re-assessment has been made, bringing the assessment up to the level of some of the pipeline companies, decided

they could allay the agitation by cutting the whole roll by 20%; and so without any antecedent appeal, and in defiance of the prohibition in subsection 6 of Section 72, which says:- "No alteration shall be made in the roll unless under a complaint formally made according to the above provisions"...they went ahead and made the alteration, and then when the pipeline company learns about it, it brings an action for a declaration that it's a nullity. But its action is only brought something like a month after the functioning of the Court of Revision and well beyond the 60 day period, the Trial Judge said: "Your action is prohibited by Section 88" But now the basis of this thing is therefore that particular Judge was of the opinion that a thing that the statutes prohibit, can nevertheless be in force, because of the limitation of time. I say that is wrong-it's morally wrong as well as legally wrong. I believe that this Section is Ultra Vires, of course, and raised that issue in the Court of Appeal, and notified the Attorney-General, but believe me it's going to be a hard thing to argue; because there's nothing more difficult to make live than an abstract absolute. I remember very well a very tough battle I had getting Quants & Ivyestablished; and it wasnt the first time I tried to establish it before that court, and the amusing thing is that that court, realizing some of the difficulty that I was confronted with, asked me if I would adopt as a ground of appeal, and one that I havent taken at all in my notice; and when I said:- Mr Carson, I think or else Mr Cartwright, I'd be quite content to take it sight unseen. So my appeal was allowed on the grounds that (laughter here drowns out words) I think I've said enough about that, but I dont think that that ought ever to have been there; and I do think it is less than a candid statement; I daresay it was made honestly enough by the person who introduced it to the Legislature, but it was not an accurate statement; because it wasnt necessary at all-just to get around a difficulty arising out of Olympia decision. And it seems to me that Section 88 is just the same as the previous section which made nonsense, which purported to say to the Court of Appeal it was the original jurisdiction, you remember. After all it is only designed

to beat the tax payer, and I've argued this thing in a great variety of places. I have been told that it would make for uncertainty in municipal administration if we couldn't close these things off...

MR BECKETT: Finality.

MR MANNING: Yes, finality. I don't think I've heard a more rubbishy statement in a long time. Because the number of cases that come up in which the validity of assessment is challenged, doesn't from all reports, exceed one or two a year in the whole Province of Ontario. Now if it is intended by that Section to make enforceable something that is prohibited by law, and I think that is going to be ineffectual, because I think when I put this to one of Her Majesty's Judges not so long ago, and he is not right here but he sat on one... I'm going to shout this from the housetops and be damned in the act that says I can't, and then what's the Court going to do? Is the Court going to say:- My conscience is elastic enough to let me enforce something that the statute prohibits? Try that! But that's what this Section really purports to do. And it is a nullity because a nullity is something that is zero, and you can multiply zero by a million and you can still only make zero out of it. And it seems to me that the Act ought not to have any of these things in it which frustrate people. And I can say this because, don't forget, I act as often for municipal corporations as I do for private individuals, and I think I've got an interest in seeing fairness done on both sides. Well that brings in another interesting thing because you have the originating motion machinery for determining assessability in 87 A, and I suggest it is very desirable machinery; but I don't see why it shouldn't be respected to the same time sequence as is proscribed in Section 88, except that if you didn't have that same time sequence in, you could drive a nail through Section 88-that's the only reason why the time limits are in here. It seems to me there oughtn't to be any time limits-an expeditious way of discovering whether something is or is not assessable. Well there is in the background of that particular legislation- ...a large question of public policy of course; but I believe that the Legislature ought to be just as scrupulous in protecting the property interests of the individual and law abiding tax paying cit-

izens as it is in seeing that a person accused of offences gets a fair trial. And I don't see that a different rule ought to apply to the municipal taxpayer than what applies to a man accused of petty theft brought up under the Summary Convictions Act, and yet it does. And in the name of what? The convenience of some municipal officers who find themselves disturbed in having to deal with this matter. It really doesn't affect any vital financial interest in the municipality at all. And then I've only got one more thing to say-I mentioned this equality of ratability and the desirability of having some kind of appeal machinery set up; and may I offer you this personal observation as to belief. I was a guest at the recent Convention of the Assessment Officers of Ontario, and I don't know when I've had a more enjoyable time or saw a greater degree of eager seeking for some satisfactory way of dealing with questions of equality. Question after question that came from the floor had to do with this:- How do you get at ratability? ratability of assessment? I don't know the answers, but I suggest that one of the ways we're not getting them is by the stifling of appeals, and by not making that ratability the basic thing in assessment law, because you'll never get an actual value; there isn't such a thing. It goes up and up and is what some particular person will pay for some particular thing at some particular time for some particular purpose for property. So there isn't anything that you can call an actual value, but you can get somewhere closer to treating all people alike. And I think that's the basis of the urge for the manual system of assessment developing. It's the reason why it's thrusting itself forward, and if that is so, then there ought to be right of appeal, where there is a departure from the standard; and it ought to be a right of appeal by the tax payer himself, and not a right of appeal to try to upset a whole municipal assessment roll. The pipeline companies, as we told you the other day- the Trans-Canada-launched 289 assessment appeals in one township alone. Well it's just impossible, but that's the only way left open by the Act. And maybe if you beat the dog hard enough, he's skin the (laughter) But that's why I have talked at greater length...I could

continue but I think I would only be talking about a vast number of details and that wouldnt be very helpful to you-those are drafting problems as I see them.

MR BECKETT: Mr Manning, we certainly appreciate you taking your time from your cottage, considering that nice boat that you have, to come down here and talk assessment to the Committee. It's very important and yet it is pretty dry as far as the public is concerned although it is very vital to them.

MR MANNING: Well I'm obliged to the Committee for listening so patiently.

MR BECKETT: We appreciate your assistance very much, and if we may, could we call on you again when the fall comes along and you are back in town?

MR MANNING: I'll be glad to be of any assistance I can because this is very close to my heart, if you like to put it that way. I have a desperate feeling that somehow or other I have not been able to bring this one home-I cant make it live- it is too dry.

MR BECKETT: Well that's one difficulty with this Committee, you know. Most Select Committees are dealing with a subject not nearly as dry as this one, such as Drugs etc.

MR COWLING: Maybe it's because we have a dry Chairman. (laughter)

MR BECKETT: Well, Gentlemen, we'll adjourn until 2 o'clock. Thank you, Mr Manning.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-FOURTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

FRIDAY,
 JULY 13th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

H.R. Davidson, Q.C.
 R.H. Cooper
 F.S. Gregory
 Controller Mrs E.N. Fullerton
 Alderman P.V.V. Betts
 Alderman G.D. Jefferson

PRESENTATION:

BRIEF - CITY OF LONDON

THE CITY OF LONDONHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Now Mr Davidson, would you kindly introduce your delegation to the Committee.

MR DAVIDSON: Thank you, Mr Chairman, and Gentlemen, we have with us Controller, Mrs Fullerton, Alderman Jefferson, Mr Cooper, City Clerk, next Mr Gregory, and next to me is Alderman Betts.

MR BECKETT: Thank you. Now Mr Davidson, you may proceed in any manner that you see fit. We've been over your Brief, and as you know, a couple of items that have been mentioned, have already been taken care of.

MR DAVIDSON: I think I have those marked, Mr Chairman and Gentlemen, shall I then proceed with Appendix A, which pertains to proposals with regard to the Assessment Act, and the first proposal is that one in reference to the Assessment Act for an exemption to "places of worship" be changed to "places of public worship". That proposal follows some of the legislation in the other provinces, and I suggest it's useful to prevent any misunderstanding as to the intent of the statute. A place of worship is not intended to be a place where anyone may kneel down or even two or three may kneel down, but some place which is known, perhaps commonly as a church; and I suggest that "places of public worship" would be preferable to the wording, "places of worship" in the Act.

MR BECKETT: You think that's sufficient to make that difference when that word "public" is placed around it?

MR DAVIDSON: Yes I think it's a place of worship where the public may be admitted; where the public may join generally in worship; it may not be limited to that particular sect, but any place of worship; now I think a place of public worship can be a mosque; we have a mosque in London, and I think that is intended to be exempt just as any other place of worship; but it's to differentiate between these small groups that may gather and places of public worship as we know them in churches.

MR MORROW: Mr Chairman, before we leave that Section, I wonder if there'd be anything that could be incorporated in there that would cover a place where a church has existed quite properly but has burnt down, and it's left there as a vacant lot; then the Assessment Department of the city comes along and assesses it and they have to start to pay taxes while they're getting the new church rebuilt. Now we had a situation in Ottawa like that this past year, and there was a great deal of controversy about it. Of course the church people were quite indignant-this was Chalmers Church-one of the largest churches- and when after a period of two months and they hadn't got around to rebuilding it, and the assessors came along and put an assessment on it...on the land anyhow...I think there should be something in the Act that would cover these places of worship, cover the property that is theirs and the time that it is burnt down until such time as a new edifice is erected thereon.

MR BECKETT: What is the wording in the Act?

MR THOMAS: It might be some considerable time before they get a new church built.

MR MORROW: The Assessment Act only gives them 30 days or something like that.

MR DAVIDSON: "Any place of worship or land used in connection therewith, and churchyard, cemetery or burial ground....

MR BECKETT: Then there's no provision.

MR DAVIDSON: ".....exemption from taxation under this paragraph shall not apply to land that is rented or leased for a church or religious organization."

MR MORROW: The church people got around it by erecting a tent on the property and holding the odd service there; and that's the way they got around it, otherwise they were going to have to pay the tax the assessment officer has placed on it. I just thought it should be better covered in the Assessment Act. The Assessor said he had no other way out than to assess it.

MR DAVIDSON: Then we went on to question of exemption of machinery and equipment in Section 4 (17). In London we had an

an experience with this Section dealing with John Labatt Brewery, and we thought that when the city had assessed the brewery in regard to brewing tons and other plant; and we thought it was our duty to so assess it. The case came before the High Court Judge, and it was decided against the City, and the case was not taken on to appeal but it seems to me that there needs to be a clarification of the matter of the machinery and equipment used for manufacturing purposes. Now for the purposes of business assessment, there is a distinction between brewers and manufacturers, so far as the rate, so that the Act obviously deals with them differently. And our submission is that if brewers are entitled to exemption in respect of their operation, then the Assessment Act should be amended so that it is clear; and we would think that that might be clarified by saying: "machinery and equipment used for manufacturing or for industrial process." It may be that the brewers are not manufacturers, but certainly they have industrial process, and if they're entitled to exemption, then it should be clear that is an exemption, and that the assessor should not be required to assess their equipment that is used for the brewing process.

MR BECKETT: Yesterday, we had some creamery men here and they discussed that very point, are they manufacturers, or producers or retailers-what classification are they?

MR DAVIDSON: Yes, it is not clear. The next is the concern that the Council has with regard to the extension of exemptions, and it is suggested that if any further exemptions are to be given from taxation, then there should be some option that it be brought into effect by by-law of the Council of the municipality, and the Council would have some authority to either allow the exemption or to deny the exemption in that particular municipality; now the question of exemptions also comes up with regard to places of learning, and I'd like to say briefly that the case that is mentioned at the bottom of page 4 of this Brief, World Wide Evangelization V Beamsville. Now that opened up a new field of exemptions entirely. That is a small undertaking of a man who is concerned about mission-

ary work, and he was lecturing missionaries and teaching them automobile mechanics and other useful endeavours which missionaries might have to exercise in the field, and he claimed an exemption from taxation in respect to his place in Beamsville, the same as a seminary of learning, and the Court of Appeal of Ontario denied that, and said this was not intended as a seminary of learning; a seminary of learning meant something in the nature of higher learning- something like taking a Masters degree or something of that sort- that is what a seminary of learning meant. But the Supreme Court of Canada, in interpreting the Section, held that this endeavour in Beamsville was a seminary of learning, and that therefore, it was free from taxation. Well, I would submit, Mr Chairman, the Committee might well study the definitions, and the intent behind the definitions, so far as seminaries are concerned.

MR BECKETT: Just there, Mr Davidson, I would like to say that we had a Brief that suggested that there be no exemptions.

MR DAVIDSON: I think the City of London would be very pleased about that, Mr Chairman,...

MR COWLING: As long as the city didn't have to do it. (laughter)

MR BECKETT: No, no, Mr Davidson has just suggested that it be left to the local council.

MR COWLING: Oh, I agreed with his first suggestion, about the by-laws, I think that is fine, because there's nobody knows the local situation like the council.

MR BECKETT: That's their business; in other words, it might be better than the province telling the people...telling the municipalities what shall be exempt and what shall not be exempt in the local municipalities.

MR THOMAS: Well, Mr Chairman, I'm afraid I disagree with that because the local people are much nearer the local scene than we are, and I think...

MR BECKETT: They're not afraid, are they?

MR THOMAS: We are in a better position to pass legislation like that. The local people are subject to the local

pressures and...

MR BECKETT: Well, would they be afraid then?

MR THOMAS: They might be, but I think we're in a better position to do it, and if we're going to have any exemptions, I think it should under the legislature rather than the local people.

MR BECKETT: But you dont agree in having a dictator telling you what to do?

MR THOMAS: No, no; I just say you would only introduce that kind of legislation with a presentation from the local people, if requested by them.

MR COWLING: You mean as we're doing now.

MR THOMAS: Sure.

MR MORROW: We're not granting permission now.

MR THOMAS: I know, but you have to go to the local people yourself.

MR BECKETT: Well who should govern, the local people or somebody above the local people?

MR THOMAS: Well, supposing the YMCA goes to the Oshawa Council or some other council and say they want exemptions from local taxation, a certain pressure is brought on the Council; I think the Members of the Legislature would be in a better position to decide that one than the local people; and I'm sure the local people would prefer to have it that way.

MR COWLING: I dont agree; that's part of being a Councillor; if you dont want to be subject to the local pressures, dont get elected to the Council. You know that..you've been on one.

MR THOMAS: Well I know, but you do know you're subject to the local pressures even when....

MR COWLING: Well I know when I was on the Toronto City Council, and everybody on this Committee has been on a municipal council, there were many items came up that we said very quietly we hoped the province would do something about this, so we wont have to, but..it is still being done...it is a natural way to strive to get these things done. As you said, Tommy, that I take the respon-

ibility....

MR BECKETT: Mr Cowling, you should have sat on York County Council and you'd have a better lesson than you would in city council; they say, Oh let the province do it!

MR DAVIDSON: Mr Chairman, I dont think that's exactly our Brief; I think our Brief is, we dont want any more of these exemptions pushed on us, unless you give us the right to refuse to put them into operation-that's our position, rather than having it the other way around; it should be all in our hands.

MR MORROW: Mr Davidson, as you know, that's pretty well been in the province of the Private Bills Committee in the last number of years-for the last three or four years, anyhow, only granting permission-it's only permissive legislation anyway.

MR DAVIDSON: We have gone to the Private Bills Committee, with requests, I think, in most cases, that this should be done. but they wouldnt want to see any further exemptions made universal without some power to refuse....

MR THOMAS: Permissive and only on request?

MR DAVIDSON: Yes. Well next deals with the very vexed subject of business tax, and the first mention of it is with regard to departmental stores and so forth. As the Committee knows, there's a great variety of percentages of taxes worked out, and we have had some problems with this, as dealing with more than five branches of retail trade. For instance, we have Simpson's on one side of the street and Kingsmills on the other side of the street, and these have more than five branches of retail trade; and along side of Kingsmills, we have a somewhat smaller store but comparable to Kingsmills in its dealings. And we have the declaration, and the courts declared Kingsmills susceptible to this higher rate of taxation because they carried on more than five branches, the next smaller store, they found that they were not susceptible; now it seems to me to be a very difficult thing, because I understand that some of the departmental stores are now organizing by setting up separate departments within their organization as separate corporat-

ions, which is giving us further difficulty; and it seems to me that the whole matter should be reviewed, and perhaps some attempt to place any grading of business tax...the percentages of business tax, should be on the size of the premises occupied; and if they have a big store which incorporates something which looks like a departmental store, then they should carry that higher rate, notwithstanding any separate incorporations.

MR BECKETT: Then Mr Davidson, what would you think about British Columbia....

MR DAVIDSON: I shouldnt remark about that.

MR BECKETT:basis...no, I'm asking what you think or the members of your delegation, where that is permissive that the municipalities may impose a business tax?

MR DAVIDSON: I can only speak for myself, Mr Chairman, and I would not think that any tax should be permissive. I would think that that again leaves the parochial pressures, and I dont know whether that has ever come up before the municipal council of London.

MR BECKETT: But all your licensing is permissive, and business tax is more or less of a license.

MR DAVIDSON: Our license fees, I think, are hardly related to the amounts involved in business tax; they are a rather minor amount.

MR BECKETT: I notice on your Brief, where you dealt with Section 9 on page 2, you make this remark:- " some classes of business should obviously be continued at the higher rate of business tax."

MR DAVIDSON: Well we feel that there-even in certain types of merchandizing where the profit is higher, we would have to do some study of course to see where all the profits are related to turnover, and whether or not these particular types of businesses, which have a high profit, should pay a higher tax. That's something that might be examined. My view was that it might be on the size of the premises occupied, that is, if you have a small store, obviously you cant do a lot of business that the larger store does, therefore

you should not pay the higher rate of business tax.

MR MORROW: But a Simpson or Eaton Order Office, they might do more business.

MR DAVIDSON: Well in that case, I think in London we were able to assess the T.Eaton Co Order Office on the basis of 75% business tax, and this was supported in the Court of Appeal.

MR THOMAS: You were supported in the Court of Appeal?

MR DAVIDSON: Yes. Now on page 2, I refer you to Section, subsection 11. that is the rather troublesome one dealing with greenhouses and florists. Now there are two conflicting schedules in that case, Dale in Brampton and some of the Brampton areas held that they were not susceptible to business tax because they were farmers and nurserymen. Now we have a judgment in London which was upheld by the Court of Appeal in which a greenhouse is assessed as a business and has to pay business tax. Now it may be that there are certain farms of truck growers, and even some of them who have tomatoes growing in greenhouses- they may classify, perhaps as farmers and nurserymen, but where flowers are grown and sold at wholesale, our submission is that they should be subject to business tax, because it is a business as much as any other business.

MR BECKETT: What would you say about a chicken farm?

MR DAVIDSON: Well...I don't know....

MR MORROW: They're retailing a product there, at least it should be under the retailing of a product.

MR BECKETT: I thought you meant about when we had the chaps in from Welland who brought up the question that they were having assessment...business assessment in the chickens...broilers.

MR EVANS: It's a business and why shouldn't they pay a business tax.

MR MORROW: Well there are turkey farms...I know of one..the City of Ottawa decided they should pay business tax on the buildings where they had their deep freeze and where the retailing of turkeys went on. They do a very large business with restaurants and the general public.

MR BECKETT: Mr Davidson, I hope the members of this delegation wont mind if we ask some questions. We've had Briefs, and many of them have said there should be business tax on apartment houses.

MR DAVIDSON: The apartment business is being carried on in the office, but the rest of the building is a private dwelling.

MR BECKETT: Well that's the reply, well if you're going to tax apartment houses with business tax, you'd better tax private dwellings too. But they're sincere in that.

MR DAVIDSON: Yes. Now there's just one Section left and it refers to the old chestnut of the private members clubs; it seems to me that's been thrashed out in the Courts so much now that it certainly needs clarification. If it is not intended to assess private clubs, then it ought to be taken out of the Section...that is private clubs that serve meals, and it should only refer to private clubs. Now the next one I've already dealt with that in the matter of the various assessments on business.

MR COWLING: Just on that, Mr Chairman, I notice you say in Section 9 in the first page here:-"some classes of business should be obviously continued at the higher rate of business tax" These five would be "distillers, brewers, wholesale merchants, insurance companies, loan companies, etc" I think you ought to know that all these people have been before the Committee and they've presented a dandy Brief for reducing their assessment.

MR MORROW: It is very discriminatory.

MR BECKETT: Well as a matter of fact, their Brief was very interesting; they did a great deal of research work going right back to the beginning, 1904, and compared it with other jurisdictions in Canada.

MR DAVIDSON: Well in Section 21, the question of the methods of assessment. Now the Department advocates a Manual for the guidance of assessors, and one of our County Judges has said that that has no effect, and he suggests in appeals before him, that referring to the Manual does not help the municipality's case in the

appeal, and if the municipality wants to refer to the Manual, then the Manual should have some backbone or regulations of Lieutenant-Governor-in-Council and make ~~the~~ regulation which can be enforced.

MR BLOCKETT: Now dealing with that in the last two lines, "should be on a regional basis to recognize the difference in costs in various parts of the province."

MR DAVIDSON: Yes, we feel that there should be costs in urban and highly industrialized areas and these would not be useful in some of the areas which are not so highly industrialized as perhaps Windsor, St Catharines, Toronto and Hamilton, which are highly industrialized areas, and we thought that the costs were higher in these; and it may not cost as much to build in London as it does in Toronto. Therefore when...if the Manual is given some effective regulations, it should be designed so that there are sections so far as costs are concerned, that are dealing with the various areas.

MR BECKETT: Would it cost as much to build a house in Sudbury as in London?

MR DAVIDSON: I have no experience in this, but I know that the wages in Sudbury are in a higher category than they are in London, and I would therefore expect Sudbury costs to be higher.

MR SINGER: Having gone that far, Mr Davidson, do you think assessment should be done on a regional basis?

MR DAVIDSON: I can see no harm in that at all, Mr Singer. The only effect it would have as far as the county is concerned..that's the only place I can see it would have any effect, and with municipalities, townships, parts of the county..if they're in separate counties, I think probably one county should all be one regional basis for property assessment.

MR BLOCKETT: Then if you did it on a county basis, would you include the cities?

MR DAVIDSON: No, I think not; I don't think that would be necessary. I can see no relationship between the assessment of the counties and the assessment of the cities.

MR EVANS: What about where you have the townships

are paying into the cities.

MR DAVIDSON: I dont think we have that experience in London at all and they just have,...

MR BECKETT: They would in towns.

MR MCNEIL: They have it in Elgin.

MR EVANS: They have it in Simcoe County, the City of Barrie and several of the townships are involved in municipal taxes.

MR DAVIDSON: I would think wherever the municipalities are involved, it might be necessary to put them on the same regional basis. That probably would result. Then with regard to the direction in the Act that lands and buildings shall be assessed at their actual value. Some assessors have some compunction, I believe, of taking a false oath, and many municipalities deal on a 40% or 50% basis, so obviously the oath is not correct when they say the assessment is at actual value.

MR BECKETT: In their opinion, it is the actual value.

MR DAVIDSON: There has been some suggestion that the Manual should be up-dated to indicate present day costs. Now, with great respect, I think that would be a mistake because I have had experience during the depression with many assessment people in London where the asking price was less than the amount of the assessment with the result that the County Judge cut back the assessment immediately although they were assessed equally with other buildings; so that I wouldnt think that it should be raised to the point of present day costs; but there should be some mean, perhaps not 1940 costs...1950 costs, some mean which we could perhaps agree is a little more up to date, yet not to a point where any depression might affect the values.

MR MORROW: Perhaps if we had it between the two peaks, otherwise you're going to have trouble at one time or another.

MR BECKETT: They could always re-word Section 35.

MR EVANS: You couldnt say actual value.

MR DAVIDSON: If the Manual is going to be made a date

for the assessment, that may not be necessary to say actual value.

MR MORROW: Normal value.

ALDERMAN BETTS: I was wondering, Mr Chairman, if the Committee had got a Brief from the Canadian Tax Foundation on this subject under discussion; I noticed in the 1951 papers at their Conference, this was discussed- actual value.

MR BECKETT: Actual value?

ALDERMAN BETTS: Yes, and I suppose it could be ascertained...

MR BECKETT: Today's value...tomorrow's value.

ALDERMAN BETTS: They're very much under today with results of assessments on appeals; you cant very well weed out what is actual worth. Arguments are very strong on comparable value. I was just wondering if the Committee had a Brief from them.

MR BECKETT: No, we havent.

ALDERMAN JEFFERSON: Mr Chairman, what we're endeavouring to do is to be sure that the values are comparable for taxation purposes, as the Section says, comparable value for land in the municipality for taxation purposes, having regard to the Manual issued by the Department of Municipal Affairs.

MR BECKETT: No right to try to equalize.

ALDERMAN JEFFERSON: Well that's the main purpose of the Act and the Manual, is to see that the burden of taxation falls equally.

MR DAVIDSON: Then in Section 165, which deals with surpluses arising out of tax sale; it provides that the balance if any, not retained for taxes, shall be paid by the treasurer to the owner of the land, or to such other person that may be authorized by law to receive the balance. Now that we find most difficult to administer, particularly where there may be a mortgage or two or an execution; it is difficult for the treasurer to decide who is authorized by law to receive the balance, because he is not in a proper position to decide the priorities between mortgagees and other claimants, and we think that the Section might be amended to provide that where there are registered mortgages, liens, or other claims, or if

there are executions in the hands of the sheriff, the money might be paid into court without order- something similar to the Insurance Act...the money might be paid into the court without order and there after, the money stand in the place of the land and be subject to further order of the court.

MR BECKETT: There is no definition of owner in the Assessment Act?

MR DAVIDSON: I believe there is one.

MR BECKETT: Actually the legal owner is the mortgagee.

MR DAVIDSON: Yes, or there even may be priorities between the mortgagees and execution. Well the next is the question of simplification which is perhaps much easier to state than to put into effect.

MR BECKETT: You know the terms of reference? (Yes) That's one of the words. (laughter)

MR DAVIDSON: And as an example, we have the question of tax arrears and the interest on taxes. Now the interest on taxes falls in Section 120, subsection 3 and and we jump 20 Sections before we find out about the rest of the penalties that apply when the taxes are in arrears. We feel this is an example where the Sections should be brought together, so you can look at one place and see what happens when your taxes are in arrears. Dealing with the tax arrears, (reads page 4, para 3) "(a) That penalties and interest.....in effect" We feel this \$1000 should be taken out so that there would be a uniformity in the matter of penalties and interest.

MR BECKETT: Did you have that in your Private Bill last year- some municipality asked for that.

MR DAVIDSON: We've never had that in ours.

ALDERMAN JEFFERSON: Some municipality in the Toronto vicinity was asking for that, Mr Chairman.

MR DAVIDSON: Then under the designation of voters, in the preceding paragraph, we suggest that there should be only one designation, and that would be with the letter O; and that arises

by reason of some other suggestions that we have with regard to voters lists and so on and with regard to the municipal franchise voters-the Extension Act Voters. There has been a suggestion given to the City Council by the Planning Director that the Brief should include a recommendation for the change in the Assessment Act, allowing the municipalities, where there is an official plan for land use, and implementing restricted area, zoning by-laws, to base taxation upon the potential use of the site, according to the official plan. Now that might put out of business a good many farmers, I think, and I don't think the Council is prepared to take any action on that recommendation of the Planning Board.

MR BECKETT: Mr Davidson, Mr Taylor might speak on that matter because he's had this matter with Scarborough to the fore for a couple of years, and they thought that the planning of a certain part of the township for farming purposes would assist them from a taxation standpoint. What was the result, Mr Taylor?

MR TAYLOR: Well apart from the farmer's feeling in the course of zoning the farms...I think what it says here is that the single tax does not break a valuation as a basis for local taxation. I think that's the point here.

ALDERMAN BETTS: We didn't really have an opportunity to study that, Mr Chairman. We have read about it.

MR DAVIDSON: The next deals with Dog Tax etc and we have had difficulties in London which we have overcome by the means of private legislation, but we want to call to the attention of the Committee that the power to restrain dogs or when they're running at large, and there was a definition of running at large, which meant on the highway. We want to draw your attention to that. Now the next is dealing with the Sections which have been transferred already from the Factory, Shop and Office Building Act into the Municipal Act at the last session. We think that the legislation ought to have some further investigation with regard to classification of shop. We find that most difficult to design a by-law which will properly classify shops, for instance a lingerie shop

may have to close on Wednesday afternoon, while Simpson's next door sells lingerie without any restriction.

MR BECKETT: You dont think the '62 amendment gives you that power to set up your by-law?

MR DAVIDSON: Well, we havent experimented with it, of course, but it seems to me there ought to be something in the legislation to make it clear whether or not that's the intent of the legislation; that you ought to be able to close down the drug section or the lingerie section or the hardware section of the departmental store; hardware stores have to close down generally in the municipality.

MR SINGER: Well it says now:- all shops or classes of shops.

MR BECKETT: I think it's wide enough.

MR SINGER: It tests the ingenuity.

MR DAVIDSON: Yes, what a variety store is.

ALDERMAN JEFFERSON: I think one of the difficulties is that when you get into court, you have, without any guidance being given by the Act, one magistrate will have one set of criteria and another magistrate has another; there's nothing that gives you, in any of the decisions, any real guidance as to how you should go about it. Is it based on the amount of space occupied, the profit-profit can be a very misleading guide, and yet is used as the criterion in many many cases in the police courts.

MR DAVIDSON: The test is by the principal trade.

ALDERMAN JEFFERSON: Yes and since you close by principal trade, then you really have a major difficulty unless you can properly classify shops and set out the method in the Act what criteria are to be used in classifying them.

MR SINGER: Do you think the province can give you a definition any better than the municipal can do.

MR DAVIDSON: I think that province's law would be stronger than a by-law prepared under the present legislation. If the province would give us something to say you may classify shops by either of the following tests,-area occupied, turnover, profit.

MR BECKETT: That would be getting pretty close to invading the income tax field, wouldn't it?

MR DAVIDSON: I suppose area occupied might be one of the classifications; if they just have something to hang their by-law on-some direction.

MR SINGLER: Would that help you with a modern drug store?

MR DAVIDSON: That's very difficult.

MR SINGER: And supermarkets.

MR BECKETT: You just can't legislate for everything; something has to be left to normal competition.

MR SINGER: Let the competition settle it?

MR BECKETT: Competition is a big factor.

(chit chat here re competition)

MR DAVIDSON: Mr Chairman, if I might be permitted to criticize the draftsmanship of one of the Sections of the amendments to the Municipal Act this year, Section 43 which brought into the Municipal Act provisions for the Factory, Shop and Office Building Act. I find subsection 14 difficult to interpret. That provides that a council may amend on appeal any by-law, except the by-law relating to retail gasoline service stations passed on the application of not less than three-quarters of the numbers of the occupiers of such service stations passed under any predecessor of this Section or where a bylaw is not required to be passed on the application of any number of occupiers of shops in the municipality. It seems to me if they took off that tag end and put it where it belongs, we would have something that was clear as to the intent, so it would read:- A municipal council may amend or appeal any by-law passed under any predecessor of this Section whether or not etc...and then bring in the exception...except a by-law relating to gasoline service stations.

MR BECKETT: May I say, Mr Davidson, that's a very constructive suggestion.

MR DAVIDSON: Thank you. And then we go on to the Highway Traffic Act which is perhaps not entirely within the pur-

view, except as it applies to the municipalities; and we would like to have the power to put in emergency traffic regulations, either in cases of emergency or perhaps for test periods. And it is recommended to your Committee that you give favourable consideration to the amendments of the Municipal Act, to the Highway Traffic Act to allow a municipality the power to authorize, without by-law, the use of such traffic control devices for a period of 60 days, and if necessary, to extend that period. Now that would be without relation to the passing of a by-law.

MR BECKETT: That would be delegation of authority. then...

MR DAVIDSON:and without having it approved by the Highway Department; and they also go one step further in the third paragraph, suggesting (roads, appendix E, para 3) "It is suggested.....of Ontario."

MR BECKETT: In other words you'd like the authority to pass by-laws for creating one-way streets, keeping heavy trucks off certain streets without approval.

MR DAVIDSON: Yes, and the difficulty is that many of these things have to be tested before you can really decide what is the proper control. You may put one test in for three months, and find that that doesn't work; and you want to try it in reverse order; and all these things, if we wait until we get something drafted and get it down to the Department of Highways and back again, it takes so long; it clutters up the administration.

MR BECKETT: What about the public; they have to be considered.

MR DAVIDSON: They would be signed...these changes would have to be signed, otherwise the public would not know; and the public don't know when they are signed, whether those things have been approved in Toronto or Kalamazoo, actually. So it's merely a matter of signing it anyway. There is another thing..we would like to have some authority in the by-laws to provide for temporary signs; for power to divert traffic where there's work going on; power to regulate...we have power where there is const-

warnings
 uction to put up boardings and so on in the Municipal Act, subject to the Highway Traffic Act- you see it's all subject to the Highway Traffic Act- which makes every by-law invalid until approved by...inoperative until approved by...

MR BECKETT: Is that what that means?

MR DAVIDSON: That's the way we read it , yes.

MR BECKETT: It doesnt say "subject to approval"

MR DAVIDSON: If you read the Highway Traffic Act, it does say:- No by-law shall be effective...

MR SINGER: The Dept of Works and the Police put up signs, EMERGENCY, and NO PARKING and....

MR JEFFERSON: What is involved here is more extensive than that. Let's suppose that your main one-way street is going to be paved; and you want a one-way street and you move it over to the next block; then you havent any power to put up carboard signs for that; you should have something more tangible than that in order to direct traffic one way on the adjoining street for the period during which the construction is going on. There's no construction going on on the street to which you've diverted the traffic. You may even need to move a set of traffic control lights for a period of four months while a bridge is under construction or an overpass, and that isnt contemplated in these regulations. And it takes you as long to get the by-law passed and the installation approved as it does to get the job done.

MR THOMAS: I agree.

MR SINGER: But your parking reference here- many police forces do this-the signs- and, I think dont have any authority.

MR DAVIDSON: Well there may be some doubt about that, and I had proposed to speak to the Committee on that point. Now the Highway Traffic Act, Section 70, sub 10 says that "these signs and so forth, the traffic signals, are subject to the direction of an officer having authority." But there's no place in the Highway Traffic Act spelling out that an officer has authority; and I would submit that Section 70, sub 10 of the Highway Traffic Act should be amended, so that all of these regulations should be subject to the direction of

the police, and the power of the police to direct traffic should be spelled out.

MR SINGER: The way it's worded now, it is necessary for the police to be on the spot to direct traffic.

MR DAVIDSON: That's right.

MR SINGER: To have a uniformed police officer there

MR DAVIDSON: Yes, I'm speaking now about the direction of traffic, not the parking off streets so much. But it says it shall be subject to an officer having authority, but at no place does it say that an officer in uniform has authority to over-ride the direction and the various traffic orders and signs.

MR SINGER: Wasnt there a recent amendment extending the powers of the police officer in the direction of traffic?

MR DAVIDSON: Well I havent been able to find it, only Section 70, subsection 10...I think that may be the one you have in mind because I believe that was an amendment. We have a situation on one main corner where the policeman was on the intersection and he is signalling traffic against the red lights and putting them through, and holding up the green while someone comes through on the green and knocks into the policeman and the question arises, what was the policeman's authority to override the traffic signal. The next part is Appendix F and it deals with the Municipal Act, and the first one is in regard to annexation. (reads, Appendix F, Section 14) "This is the Section.....not be registered." Our submission is that the Board's order is that it be registered and that the by-law passed by the municipality is not effective because the definitions of areas are not necessarily the same as they were intended by the City in this case when they passed the by-law; the Municipal Board cut it down very substantially so we suggested that the Board's order be registered, not the bylaw

MR BECKETT: Wasnt this part of your Private Bill last year?

MR DAVIDSON: Well last year, we asked for the power to register the Board's order generally, but not on every lot, and that's part of something, I think, the Committee might consider. We can see no useful purpose in registering on every lot and every plan

of subdivision in reference to the order of the Ontario Municipal Board and annexing it to a municipality. We have registered with the general register and the Registrar at London has a map on the wall on which he has outlined the boundaries declared by the Municipal Board, and I think it serves the purpose very well. In Section 18, it refers to the bylaws which will be continued in effect upon annexation, and we suggest that that should be extended to read until amended or repealed, except where otherwise ordered by the Municipal Board. Where a locality is annexed to a municipality, the by-laws of the latter extend to the locality, and the by-laws then in force in the locality cease to apply, except bylaws relating to highways etc etc, which shall remain in force until repealed by the Council of the annexing municipality. We would like to see that amended...amended for repeal...because there are certain bylaws in the areas which were annexed to London which we wish to preserve, particularly planning and zoning bylaws; we'd like to be able to amend those rather than appeal them and put new bylaws into effect.

MR BLCKETT: And yet that Section starts off with, The Board may do that....

MR DAVIDSON: Except where otherwise ordered by the Board. Then the bylaws which continue in force, it says...except by-laws relating to highways-bylaws in areas of subdivision control and bylaws passed under the Planning Act or predecessor which shall remain in force until repealed. Now the question in our minds too is whether or not county bylaws, that is, regulations on county roads which came within the municipality should continue. My own view is that that is perhaps a bylaw which was enforced in the locality, and probably the county bylaws do continue until amended or appealed.

MR BLCKETT: What's an example of a county bylaw?

MR BLCKETT: County roads...a set back on county roads...

MR JEFFERSON: Some restriction against fines on county roads; which they have the power to do and we have not.

MR DAVIDSON: And they regulate suburban roads as well as the county roads. Then there are the other things which govern and those are the regulations of the Lieutenant-Governor-in-Council under

the Highway Traffic Act, and we think that those should be continued as well as the other bylaws. Now if I may pass on, Mr Chairman to Section 34, which is a matter of qualifications of members of council; the question has come up from time to time that certain members were qualified when elected. Do they lose the right to sit when they have lost those qualifications. There are two Sections, one of which makes it clear that they may not sit, but I think that the Act could be well reviewed with regard to that-sort of make it clear that when they are elected they have to have qualifications, and that those qualifications should continue through, such as citizenship and ownership of land and presence in the municipality and so on. Then the Section 60 deals with elections and has a rather unusual provision- a provision that the returning officer can appoint constables; then Section, sub 4 provides that the Board of Commissioners of Police, for some reason or other, or Chief Constable shall appoint constables where there are voting places in public or separate schools. Now it seems to us that the Section is unnecessary, that the right of the Returning Officer to appoint constables is quite clear, and that's there's no need to have the other provision that the constable in the schools should be appointed by the Police Commission or the Chief Constable of the city.

MR COOPER: There was a case where the Chief Constable, at the request of the County Judge, assigned officers in uniform to certain polling places; this caused a great deal of comment. We have found it work exceptionally well if we engage at an election, a system, whereby we provide them with an armband indicating that they're exactly that.

MR DAVIDSON: Section 91 of the Municipal Act provides for the setting up of polling places in hospitals and places for training of nurses, officers and people doing acts of service. Our suggestion is that it should be the same authority extended to set up polling places in hospitals and charitable institutions where the bed capacity is sufficient to warrant it; we suggest that it be 200 beds. Then we come to the question of the designation of voters, and it is suggested that owners only should be indicated, and they should be de-

signated with the letter O, and I'll ask Mr Cooper, who has more experience in that to speak to it.

MR COOPER: Wives or husbands of owners are shown in the voters lists as MFNC or MF voters; this designation is acronistic as far as cities are concerned and separated towns, because the franchise is not counted for the purpose of determining how many representatives you have on county council...deputy reeves and so on. Now we feel that first, if we're going to keep these designations, there should be a new one for that type of individual; but a simpler way to do it would just be to say that in the voters list, everyone shall have the same right to vote in the same classification except those who have a vote on money by-laws, and they will be designated owners by the letter O.

MR BECKETT: You wouldnt put T in for tenant?

MR COOPER: No, we wouldnt put that in either. Why encumber the machinery and waste space...it doesnt accomplish anything. We say a man is a voter-he's on the voters list and entitled to the ballot; if he's entitled to a special ballot because he's an owner or he is a separate school supporter and he is getting a separate school ballot, you could designate that...or public school supporter, show that, but those would be the only three designations instead of now, we have about six.

MR BECKETT: The person with O has all the ballots.

MR COOPER: Yes all the ballots and the other people got everything but the money by-law. There's a later submission in the Brief, Mr Chairman, that the Municipal Franchise Extension Act be extended to permit the municipal franchise voters to vote for all of the elective offices and all questions and they be in the same category as tenants now are.

MR BECKETT: Without paying any taxes?

MR COOPER: Well, we feel that in most instances they pay in one way or another now; if the theory behind the introduction of the Municipal Franchise Extension Act is correct, then there shouldnt be very much reason why they shouldnt get the same voting

rights as the others.

MR BECKETT: Maybe the theory isnt wide enough; they should pay a poll tax.

MR COOPER: Well if that were made a prerequisite by the Legislature, Mr Chairman, then I think that might be something, but I wouldnt be authorized to express an opinion of the Council on that.

MR DAVIDSON: To continue, at the top of page 2, referring to the Municipal Act, with reference to the power to require a person to give their identity, Mr Cooper has explained this to me as the power of enabling the polling clerk to spot impersonations; that it isnt likely that a person impersonating a voter in any wholesale way ...anybody operating in a wholesale way, in that fashion would go to the trouble of getting the identity of all these people; so if there is a test-if the poll clerk can ask, what is your occupation?

MR COOPER: Now this is a place, Mr Chairman, where I am at variance with practically all of the clerks in Ontario...

MR BECKETT: There's nothing wrong with that.

MR COOPER:and they suggest that the occupation column be deleted; in my experience there was a case when a voter's occupation was asked, the deputy returning officer, hearing the reply, looked it up and said: Why you're not Mr Smith, the carpenter- I know Mr Smith, the carpenter...12 people in the line ran out of the polling place. And on a judicial inquiry into the election, in certain polling places, if you came across in the occupation column, certain occupations in rotation, you could pick anywhere from seven to twelve impersonations and prove beyond doubt by reference to the Assessment Roll. My confreres, the clerks, say that this should be made simpler for the poll clerk by putting the occupation in the voters lists; but I feel this is the opposite of what should be done because it defeats the purpose. We should not give the occupation, but the voter should be required to state it, and then this is a first class way of determining whether impersonation has occurred; because if impersonation is to take place on a wholesale basis, there just isnt time to check the city directory to the degree necessary to pick up all these occupations, for

the people who are listed as MF voters.

MR BECKETT: You had ten Smiths in one voting place all carpenters?

MR COOPER: In most instances there is enough difference in the first name-initials-to cover that Mr Chairman; and we track down identities with regard to names, initials and occupations... yes and ages too.

MR DAVIDSON: The next is Section 103 of the Act; it is with regard to the rights of a person to enter a polling place after the poll has closed. We had an instance in London where a demand was that people might go from place to place, to go in and out during the counting of the ballots, and we submit that it would be proper to have the Act amended, so that no person should be permitted to enter or re-enter the polling place after the time of the closing of the polls. Section 105, we suggest it should be clarified to indicate whether or not advertising may go on up to the point of the polling day or whether it should be stopped the day before; there seems to be a disparity of this in the various Election Acts, and we submit that this might be clarified for the purpose of the Municipal election.

MR BECKETT: But you couldnt take down those great big signs or any signs that are up for a week or ten days before.

MR DAVIDSON: Well that is the problem, whether or not there is to be any advertising on election day. There's a provision, I believe...that there be no advertising outside the polling place.

MR COOPER: Is advertising in a newspaper permitted on election day? Mr Chairman, that's one question; is advertising on the radio on election day permitted? There's nothing in the Section which covers that- radio and television and newspaper advertising....

MR BECKETT: There is in the Federal Act.

MR COOPER: Yes, I agree, Sir; but this Municipal Act doesnt cover it.

MR SINGER: Would there not be some sense in having a common Election Act for provincial and municipal and if possible for federal elections?

MR THOMAS: It makes good sense, I should think

MR COOPER: Mr Chairman, if I could differ with that-the conditions are vastly different. Some of the provisions can carry over, but you have to keep in mind that in the municipal election, you're dealing with many things, whereas in a provincial election, you are dealing with only one thing, the selection of the candidate or perhaps a provincial plebiscite, for instance you might have a province-wide liquor referendum or something of that sort. But in the municipal election, you're dealing with many things, and it seems to me that the conditions have to be tailored to some degree. There are many provisions which could be uniform, however....

MR SINGER: But advertising and the marking of ballots, I see no reason why...well federally still, you have to mark those in pencil, and it has to be with an X; why it shouldn't be sufficient that the ballot is marked in any way that the returning officer may determine which way the person is voting.

MR COOPER: We haven't yet introduced the check mark in Ontario; it has been discussed but it hasn't been done yet.

MR SINGER: But these basic things can all be standardized.

MR BECKETT: Why confuse the voter? All right, Mr Davidson.

MR DAVIDSON: Section 110 deals with the ballots of the election, and it was thought it would be advisable that the ballots should be kept in separate envelopes, instead of all in one envelope; that would facilitate any inspection or recounting.

MR COOPER: There's a confusion of opinion about this, Mr Chairman; it's subject to two interpretations; some returning officers rule that there must be a separate set of envelopes for each ballot; others say that you have one envelope, and that it's against the law to have separate envelopes for each category of ballot. We feel that the Act should be made explicit.

MR BECKETT: To simplify that? (yes)

MR DAVIDSON: Under Section 139, we suggest simplification or clarification with regard to the destruction of documents

to include books, papers or documents used in connection with the election. Section 190 (reads) "It is....Council"

MR BLCKETT: I have a notation after this one, Why?

MR DAVIDSON: Well, we want to have it so that it is clear that the Board of Control may sit as a committee of council and sit in camera. The Act was changed last year so that committees of the council have the power to sit; and we want it clear that the Board of Control as committee-as a matter of fact without naming names- some of the people in the Municipal Affairs believe that the Board of Control is a committee of council; and my opinion was over-ruled on that actually. I thought that the Board of Control was not a committee of council and consequently we think that they should be designated as a committee so that they have the same advantage as any other committee of council.

MR BECKETT: How could you have a Board of Control elected by itself with no connection with the council....

MR DAVIDSON: This is only....

MR BECKETT: I know, I know, but they are elected as a Board of Control; they're not elected as a member of council at all.

MR DAVIDSON: But they are members of council.

MR BECKETT: Yes they are but they were elected as the Board of Control.

MR DAVIDSON: But when they sit as a Board of Control, our view was that they should be designated as a committee, so that they would have the same power and protection as any committee of council.

MR BECKETT: Oh, I see-just for that purpose.

MR DAVIDSON: Just for that purpose.

MR SINGER: Could they not resolve to sit in committee?

MR COOPER: That's the device that is used, Mr Chairman, but it shouldnt be necessary to use a device; they should be able simply to exclude the public and press...

MR BECKETT: And by statute.

MR COOPER:and keep on what you have to do

then is to go through all your work on the personnel and property, and perhaps hear your solicitor on some court case, then rise and adopt what you have done; in the meantime one or two of the controllers may have had to leave the meeting which leaves them not recording their opinion on the actual action. It's much neater the other way.

MR SINGER: I have very little favour for this Section...this present Section about voting.

MR DAVIDSON: Well then the next is Section 201, the 1962 statutes I think have already accomplished this. Then we suggest that the powers of the Board of Control and our Council should be given some study and without going into it and taking up too much time of this Committee, we think a study should be carried out to the extent of a clarification of the position of the Board of Control and the position of Council. In 206, subsection 2, that is the matter of expenditures. There are two questions there, and there should be an addition, we suggest, of expenditure of ^{sums} accounts from the ^{sums} estimates, accounts for debentures and an addition should be made for other authorized borrowing. This is our Brief, but I would suggest there is also room for clarification, so that funds which appear to be appropriated in the estimates for one purpose, the purpose for which is abandoned later in the year, that those funds might be used ~~for another~~ purpose within the powers of the council.

MR BLCKETT: Without Board approval?

MR DAVIDSON: Well the Board approval is not so much what bothers me-the question that bothers me is that if you want to spend \$5000 on a fire truck that you havent provided in your estimates can you take \$5000 out of a street fund that you dont need to purchase the fire truck? We think you ought to be able to switch funds that are not needed for one purpose....

MR BECKETT: Capital funds?

MR DAVIDSON: Not necessarily capital funds; these are funds raised in the current year in the estimates. (oh yes) So they might use those...the appropriate funds in the estimates perhaps for streets or roads that you dont need, for some other needed purpose;

and to clarify that that right does exist.

MR BECKETT: I think that right does exist.

MR DAVIDSON: Some of the old cases seem to indicate- I dont know of any modern ones- but some of the old cases seem to indicate, well you didnt provide for this in the estimates, therefore the expenditure is illegal.

MR BECKETT: It's all general funds.

MR SINGER: Do you not do it now?

MR DAVIDSON: It has been done for years...I would like to have that off my mind.(laughter) Section 247, this deals with the power to license and so forth, and later on in the Brief, on page 5, of this Section, under Powers of Boards of Police Commissioners, this Brief suggests that there is no reason for the Board of Police Commissioners to have any legislative powers; the by-laws, we submit, should be passed by council and all the powers should be vested in the council; and if that is so then, if that is so, Section 247 would have to be revised. But we find up to this point, we have a conscientious magistrate-he has sat on the Police Commission; he has sat on the preparation of the Taxi By-law. When that bylaw comes up before him on prosecution, he wont sit on that case; he has to go and find another magistrate because he says:- I shouldnt sit upon a case where I have created the legislation.

MR BECKETT: Conflict of interests.

MR DAVIDSON: Yes. And I think the submission in the Brief is that all the powers of legislation should go into the hands of council and not the Police Commission. Then 297, (2) deals with the question of using funds which are put in as capital funds-there's a regulation, I think, issued by the Department, that we cant put in more than 10% per year...20% for withdrawals. I think the suggestion in the Brief is that we shouldnt be able to take it out faster than we put it in.

MR SINGLR: Why?

MR DAVIDSON: As a matter of safeguard; if you should set up any more than 10% reserve, you shouldnt use more than 10% of your reserve without some further jurisdiction; otherwise your reserve

becomes depleted.

MR SINGER: Has there been any trouble with this procedure?

MR COOPER: No, not yet. There's always tomorrow.

MR BECKETT: Be prepared.

MR DAVIDSON: Section 297, (5) provides that (reads) "that where a Board.....or body concerned." Now there's a direction in the Municipal Act, but there's nothing to help the council enforce that direction in an expeditious way; but if the council has the power to say your estimates should be in by a certain time, and then if they're delinquent, the council are able to give them what they have levied in the previous year and put that on the levy-it might help to speed up the estimates.

MR BECKETT: Couldnt they dispense with that Commission?

MR DAVIDSON: Yes, by vote perhaps, Mr Chairman...I'm thinking of the Public Utilities Commission-you'd have to have a vote to dispense with it...

MR BECKETT: A vote of the people?

MR COOPER: I'm thinking of another Board that you couldnt dispense with, the Board of Education or the Separate School Board, Mr Chairman.

MR SINGER: You're really looking for trouble if you went ahead without receiving their requests.

MR COOPER: On the other hand, they're costing the community a lot of money by not getting their estimates in on time, and while there may be reason one year for not having it, there may be municipalities where this goes on year after year.

MR SINGER: It would take a pretty courageous council to levy for the School Board when they havent seen their estimates.

MR COOPER: Let's just hope that they're all courageous. (laughter and chit chat)

MR DAVIDSON: The next is with regard to the short-term money, and this Brief suggests that we ought to have a little wider scope perhaps debentures and deposit accounts in Trust and Loan

Companies as well as accounts in banks; debentures in deposit accounts in Trust and Loan Companies would be useful or even extending it to debentures of other solvent municipalities. Then in Section 303, we think that in this case we should have two separate bank accounts -that we shouldnt have a bank account for this item and a bank account for something else. There's no reason why we cant have one bank account as long as we have separate accounts in the Treasurer's department. Certainly the operators in the Treasurer's Office they dont need separate bankaccounts because all the funds of the municipality they know, go into one bank account-the books are separate.

ALDERMAN BETTS: What if you're overdrawn?

MR DAVIDSON: Well sometimes there is not enough money there to carry on the affairs of the municipality without borrowing.

MR SINGER: Well I know of a municipality that did that and saved a substantial sum of money. Some character in the auditor's department of the Municipal Affairs thought this is terrible; however they saved the taxpayers \$200,000 in a year and a half. It was before this Section was in the Act so we were terrible people.

MR BECKETT: On the other hand, there is a movement to make the laws more strict in this regard.

MR SINGER: It's taxpayer's money-public money.

MR DAVIDSON: All the accounts balance across the ledger when audited; it's just as simple as that. Maybe it helps the auditor to keep these separate bank accounts. Well Section 321 to 328, these are all loosening up the control of the Ontario Municipal Board -here the municipalities want to expend money but within certain limitations. I think the words in the Brief are clear (reads) "It is.... ..Board." Now Section 336 deals with expropriation and that, I believe has already been recommended. Section 338 is in regard to the widening of highways and deferred widening. It's merely to provide for a period of 20 years instead of the present 10 years; otherwise there should be an amendment to the Planning Act(roads, page 3, last para) "Alternately.....is payable." Section 379, (1) deals with various regulations and exceptions. We think we should have power

to prohibit keeping within the municipality various types of animals instead of just the right to regulate.

MR BECKETT: That doesn't prohibit under those Sections.

MR DAVIDSON: It's prohibiting domestic fowl, cattle, swine, other than horses and mules. Then with regard to the clearing of snow and ice, we think that should be extended to the words "buildings or parts thereof"; the ice that forms on fire escapes is just as dangerous as the ice on the roofs. Paragraph 94 is the right to permit buildings to encroach on streets, and our submission is that the Section needs clarification; it isn't clear if a building encroaches 2" from a prior face lifting that you can perhaps let it encroach 2" more. The Section doesn't say whether that 2" encroachment for a refacing, and so on is added to the extent that it already encroaches. Section 96, there's a question of inserting the word "conduit" which will permit the construction of poles, telegraph wires and so forth on highways. There are certain provisions for conduits, but it isn't..it doesn't go far enough yet...

MR BECKETT: It isn't up to date?

MR DAVIDSON: No, now Paragraph 122 is in reference to signs. Now on vacant lots, we find that Section very difficult to administer; it talks about vacant lots ;we don't know how you define a vacant lot-how much of the lot is vacant. If there is a building on it, is the rest of it a vacant lot? It talks about abutting on highways-lands abutting on highways; we don't know how far land goes that abuts on highways; is it 10 ft back or 50 ft back? And our submission is that we should have the right to regulate the erection of signs and other devices in the same manner as the Highway Improvement Act for a certain distance back from the highway, that's a quarter of a mile in the Highway Improvement Act. And this Section very badly needs revision. The next is the question of fireworks-the sale of fireworks. There have been a great many fires just in recent times-we've had one very bad one in London from children playing with firecrackers, and we would like to have the power, not only to regulate but to prohibit

the sale of fireworks...

MR BECKETT: Is it not prohibited now, Mr Davidson?

MR DAVIDSON: It doesn't go quite far enough, we feel. We'd like to regulate very much...

MR BECKETT: And the setting off too in 31...

MR DAVIDSON: We'd like to regulate the sale...yes regulating the sale and prohibiting the sale on any days or days... that is not an absolute prohibition there... on any day or days...

MR BECKETT: You think that's qualifying?

MR DAVIDSON: We think it's qualifying, yes. Then prohibiting or regulating the setting off of fireworks in the municipality or any defined area, and requiring a permit to the holding of fire works displays. Now we would like to be able to regulate any class or classes of persons; we want to prevent children who do not realize the consequences-we want to prevent them from obtaining fire works and setting them off, because that seems to be the source of the trouble.

MR BECKETT: It certainly would be very difficult to enforce; how would you know if a child is 10 or 12 or 15?

MR DAVIDSON: Well the same way you tell a cigarette smoker, I guess. There's a regulation 16 there in the statute. That one, I think, needs some clarification. Then the section with regard to the setting out of fires also requires some revision. (reads Section 379 (1) last para, page 4) "It is suggested.....set out." There should be some power to prohibit, and we suggest that Section should be brought up to date. Now Paragraph 125, the Control of Wastes; it is suggested that that be clarified to show it's intended to apply not only to premises under construction but also to premises which already exist. That will take a very simple modification. Then we have certain instances where sewers are constructed by local improvements; and perhaps 50 yards down the street, another man wants to bring up a private drain connection and connect into that sewer constructed in the Local Improvement Act; we would like to have power to charge the man who wants to join into that sewer on the same basis as the others who paid for it.

MR BECKETT: For the same length of time?

MR DAVIDSON: For a period not exceeding the average term of years for which the municipality issued debentures for sewer construction; the sewer rate to be determined by the council and to be related to the average per-foot frontage charged.

MR BECKETT: If the debentures were issued for 20 years and he comes along ten years after, he'd be charged for the full time.

MR DAVIDSON: For 20 years on the same basis; he would have to make the same contribution the others made.

MR SINGER: Supposing your sewers were put in either with current money or from capital money, or is paid for by a subdivider.

MR DAVIDSON: Those would not be under the Local Improvement Act if they were made under some capital basis; neither would they be under the Act if a subdivider put them in, but there may be cases where there are sewers put in by the subdivider...possibly he would bring in sewers from another area; where the subdivider put those in, those were part of his obligation as a subdivider, and I think that it might well extend to adjacent....to charge adjacent....

MR SINGER: Well you're trying to catch here, people who are benefiting but not paying; and there are these other cases...

MR DAVIDSON: Yes there are these other cases... outside Local Improvement Act...

MR BECKETT: The municipality might make some money out of that.

MR DAVIDSON: I would think so and they might make some out of the Local Improvement too, in order to pay for these. Then we'd like to have power to charge people who have particular sewage problems, such as manufacturing concerns; we have some of these in which there is difficulty in treating that particular problem, such as packing houses and so forth. We'd like to be able to charge those people at a rate which would compensate for the additional problems that occur as a result.

MR BECKETT: You mean by meter?

MR DAVIDSON: We could do it by meter, I just don't..

MR COOPER: We have a meter in at least one place

and they take tests to determine the quality of the effluent-they make a chemical analysis of it.

MR DAVIDSON: The next Section is the Powers of Boards of Police Commissioners, and we dealt with that previously. The next is Section 399 (5) which is a very old fashioned Section dealing with victualling houses and other places for the lodging and entertaining of the public- it has a very wide scope, and I think there should be some revision of it to clarify it and to get rid of the archaic language. Then the next Section 401 (12), this deals with plumbers; now in dealing with electricians, there was express power to set up Boards of Examiners-there is no express power set up when dealing with plumbers. It is just as essential to have a Board of Examiners to test plumbers as it is to test electricians; because quite obviously the general public couldnt tell whether a plumber is a good plumber or not. Our submission is that it's just as essential to have a Board of Examiners and also to give some further definition to plumbing and the work included in plumbing and also to drainlayers, what a drain is and what drainlaying is. When does the down pipe in the house cease to be part of the plumbing and become part of the drain? Then going on to Section 405 and 406, I believe these have already been taken care of. Section 459 is another case where we run into difficulties because what we want to do is not expressly provided for in the Municipal Act. In the Adelaide Street overpass, we are swinging the overpass out of the area of the highway and moving it in the direction westerly. Our power is to deal with highways and bridges, and until we get the overpass constructed, and declare that to be a highway or a part of a highway, within the definition, because bridge is included in highway....we think we ought to have the authority specifically to do this , bridge rivers, gullies and other natural barriers and so forth.

MR COOPER: We run into trouble, Mr Chairman, when we go to the Ontario Municipal Board to get authority to spend funds-you have to have the land before you can dedicate it into highway; you need the approval of the Municipal Board to get the money to buy the land; but you cant get the approval of the Municipal Board until you

can recite the legislation under which you have the power to do what you intend to do. Well it's the chicken and the egg situation.

MR BECKETT: The one I've had experience with, we're building too right now...the amount the municipalities have to pay right now for grade separations; when you get the total amount for grade separation fund, and the Highways Department...the small amount that's left in each valley, that doesn't become a capital expenditure.

MR COOPER: An expenditure of \$1,800,000, Mr Chairman, the municipal share can run up to \$600,000.

MR BECKETT: These two on Ellismere, I think, are \$2,000,000-grade separations. They haven't gone to the Board.

MR COOPER: It's relative to the size of the community, of course.

MR DAVIDSON: In Section 469 (3), we think the power to encroach upon highways with canopies, signs, and so on, should be extended to fire escapes and also to swinging doors; in many cases in public buildings, the doors have to swing outward; if the building is on the street line, the doors swinging open have to go out, and we think that should be added to that Section. As a general matter, our suggestion is that by-laws, such as the plumbing by-laws and the regulations of electricians and so on, should be on a province-wide basis; because there's always the difficulty of a plumber living outside of a municipality wanting to come in and take a contract maybe in another municipality, and he finds that he's not licensed to do that in the other municipality. Maybe some substantial plumbing firm in Toronto wants to take a plumbing subcontract in London, and the Municipal Council has suggested this....

MR BECKETT: Taking it away from....

MR DAVIDSON: Taking away the regulation of these trades and having it province wide where the trade has a province wide scope.

MR BECKETT: You wouldn't license them?

MR DAVIDSON: They'd be licensed by...or regulated by the province.

MR BECKETT: Just regulated, not licensed?

MR COOPER: Perhaps they should be licensed by the province-not by the municipality.

MR DAVIDSON: Now there's a Brief submitted by the Labour Council on page 8; they feel there should be some extension of eligibility of people for council, and various members...employees, wives and so forth should not be prohibited from becoming members of the council. The wording of the Brief, I think, is quite clear. Mr Cooper has already dealt with the matter of the Municipal Franchise Extension Act.

MR COOPER: I would like to say that we feel that the persons covered by that Act should be given the same voting rights as tenants and MF voters have to vote on all ballots rather than just ballots for just members of the council.

MR BECKETT: Roomers and everybody? (yes) where they are not even listed as tenants?

MR COOPER: They would be enumerated by the assessor; they would have to have a year's residence as of January 1st-it really amounts to two years residence in the municipality. The difficulty, Mr Chairman, if I may point out from an administrative point of view, is in running an election, we're creating serious problems for the deputy returning officer at the poles by adding another class of voter; it's becoming almost beyond their powers to remember all of the regulations and what different ballots people are entitled to with the result that your whole election process will break down; it is not made simple enough for them to handle it on election day. You get a fellow who handles 400 voters in a day and he has 9 or 11 ballots for each voter and there are now 6 classes of voters to differentiate between, he's got a real problem-it should be simplified for him.

MR DAVIDSON: The Amendments to the Ontario Municipal Board Act (appendix H)- some of which we have already mentioned (reads) "It is suggested.....Board." There is also a suggestion that the OMB set up regional offices to enable the hearings to be expedited in certain areas.

MR BECKETT: The Board tried that a few years ago...

I didnt discuss it very much with him...he was here before the Committee- I dont know whether we asked him that question or not.

MR EVANS: I think you did, Mr Chairman. I think there's something in the minutes.

MR DAVIDSON: There's an alternative that might be considered, Mr Chairman, whether or not there should be regular hearings set up by the Board, so that they would have hearings, say in the first three days of every month-something of that sort. It seems to me the Board is coming down to London at all odd times-sometimes they have too much on the agenda..sometimes they have....

MR BECKETT: Well they're trying to accommodate the public.

MR DAVIDSON: I think they're making an effort, and I think their duties have multiplied so much, it's difficult to keep up. Now with regard to the Planning Act, perhaps Mr Betts would speak on that, he's the member of the council on the Planning Board.

MR BETTS: Well Mr Chairman, it's getting on and with the Committee's consent, I'll be as brief as I can-Section 2 (5), the reference there to the subsidiary planning areas, we felt that might be deleted or clarified; we notice as we read through the Planning Act the Section is not referred to again, and the Planning Director feels that perhaps the intention is that the main planning area might do the planning-might propose the official plan, and the subsidiary planning areamight recommend the zonings to the council. We are not too sure what was intended, and so we felt it might either be deleted or clarified in greater detail. As far as Section 17, (5) is concerned, looking at my consolidation before me, I think that should be 18, (5), and simply reflects a feeling of the public when they get before the Committee and the committee plans not to even hear their case, that perhaps the Act might provide, under those circumstances, the fee might be returned. Section 18 (2), referring to a notice of appeal, to a time lag between the decision of the Committee of Adjustment and when the builder can actually do the work he's has to wait, of course, for the period of appeal to decide, and council shall have an essential document; the Committee of Adjustment seldom gives reasons for

their decisions and there should be no delay involved and we thought 7 days....

MR BECKETT: Are they supposed to give reasons?
As a basis for appeal?

MR BETTS: Well, we thought if they do give the reasons they're so simple that you'd have to....

MR BECKETT: The Act says that they shall give reasons.

MR BETTS: The committee thought that perhaps 14 days was...if they're going to appeal, they should make up their minds... personally I feel that if three or four days instead of seven days...

MR SINGLER: That includes the Minister in that time?

MR BETTS: Well we won't go that far. It's just to eliminate delay as far as possible. Section 28(5) perhaps requires a little more explanation inasmuch as it is perhaps rather far sweeping; This was introduced by our Planning Director-he feels that the use being made of the land, perhaps, have something to do with the amount of land set aside for dedication. What he had in mind is, that if a large area of land, say 400 acres was set aside for the construction of high rise apartments, for example, all in one group with a high density, that the municipality would require a greater amount of park lands, perhaps, and simply tying it to the acreage being developed, was in some circumstances, unrealistic. I don't know to what extent this can be developed....

MR BECKETT: But not tied down to any purpose though..
(no) you just leave that to the local council.

MR BETTS: The local council have access to more than 5%....

MR BECKETT: No, but use they're to make of it.

MR BETTS: Quite; the use would be to them as before-it's just a matter of the 5% dedication-whether it should be for example, 5% of the area being developed; or whether it should be 5 acres for every 100 persons contemplating living there.

MR BECKETT: Then supposing you don't take acreage, and you take money?

MR BETTS: Well the municipality would be very foolish I would think, Mr Chairman, in a case where high rise apartments and high density areas were being erected, not to take the land for public purposes. Under those circumstances the municipality, you could say, if you were making use of land by putting on it a heavy density of population, you should contribute more towards parks and and so forth.

MR BECKETT: A matter of definition for the use?

MR BETTS: Yes, Mr Chairman...that is really a matter of definition which the Planning Director and the Department apparently cant agree on; if the Planning Board means that this "public purposes" is to be interpreted to mean simply park purposes, perhaps the Act should say so.

MR BECKETT: Why not leave it to the discretion of the Council-the elected representatives and capable people. If they're not they shouldnt be there.

MR BETTS: Yes, Mr Chairman, I think the position is that when the municipality tries to use it for anything other than park lands, the Minister wont give his consent.

MR BECKETT: That might be the system now, but it might have to be changed.

MR SINGER: The Bulletins, I looked at this one today when it came- February, 1962, Planning Board- The first sentence is that this land for municipal purposes is deemed to be park land.

MR BECKETT: I dont see why any Department of the Government should dictate to elected councils who are dealing with the subdivisions; they should have full control.

MR BETTS: That is our only point and that is the stand they took that it should read:-"for public purposes including, and then set out for what it can be used.

MR BECKETT: "Public purposes" means anything .

MR BETTS: That is the stand we take but the Department does not take that view.

MR DAVIDSON: "Public purposes as may be determined

by the council.

MR BECKETT: That's right.

MR BETTS: Fire Halls are a case in point.

MR BECKETT: That's a public purpose; library or anything else.

MR BETTS: Section 31, if I might move to that, Mr Chairman, this arose out of a fire which we had in London, which left certain buildings in a badly delapidated condition; and council very much wanted to order their demolition...our City Solicitor who is now our counsel advised us that we couldnt do it as set out here without a certain extended delay; and we are hoping, perhaps, that something could be introduced in the Planning Act for a simple expeditious hearing on notice to the people involved. At the bottom of that, there is a reference to..."it is suggested that provision be made in the Planning Act for Regional Planning." Actually as far as London is concerned, Mr Chairman, I think that's been done, although the Planning Act hasnt been amended (no) the Minister has decreed a Central Middlesex Planning Area, which we hope will have that effect as far as London is concerned..it will provide a certain measure of regional planning.

MR BECKETT: What is a region?

MR BETTS: A region in this case is a certain part of the County of Middlesex.

MR BECKETT: Not the watershed?

MR BETTS: Oh it may...it means the city and I think 4 townships and defined it as the Central Middlesex Planning Area; and we are not too clear the duties of that Planning Board will be. You will see later that our Planning Director suggests that perhaps the planning aspect of the Planning Board be left in the hands of one authority, and the zoning aspects be left in the hands of another authority.

MR SINGER: Entirely?

MR BETTS: On no, no; on recommendation to the council. But I'd like to come to that, if I might, Mr Singer in the middle of page 3 where he suggests that.

MR SINGER: Before you leave regional planning, do

you think we can have regional planning without regional municipal government?

MR BETTS: Well this is a stumbling block, of course; we are hoping that the suggestions that will be made by the Central Middlesex Planning Board to the various councils, will be accepted by the councils in good faith; if recommendations are made by the Central Middlesex Planning Board and the councils wont pass them, I dont know where we'll be, but the indications are ...

MR SINGLER: Even with good faith.

MR BETTS: But the indications are at the moment that all over the continent this has worked, Mr Singer.

MR BECKETT: And wouldnt your conservation authorities come into the picture too- doesnt all planning really tie itself to the contours of the land? Storm sewers, in my opinion, control regional planning. You cant make sewers run uphill.

MR BETTS: Yes. Section 31 (1), deals with the control of private driveways-this perhaps arises out of our experience with gas stations and other things, which we have in the past been developing, as I think, other municipalities have...development agreements. And I think the suggestion is made elsewhere that perhaps what the municipalities have heretofore been exercising by development agreement, perhaps might more efficiently be done by by-law.

MR BECKETT: We've had other Briefs on that.

MR BETTS: All right then. The definition of a municipality...I think this perhaps once again refers to the idea of having the county, perhaps, as the main planning area, and...its a little further down the page-I'll refer to that later, if I may. The Committee of Adjustments decision (reads) "It is....decisions." I must confess, Mr Chairman, that I dont quite see the point of it, quite frankly...it slipped in somehow..because if they come to the Committee of Adjustments, and they dont get what they want, and they persist in the violation, presumably they're in breach of municipal by-law, and can be prosecuted...

MR BECKETT: By the municipality?

MR BETTS: Yes. I'm most embarrassed by this recommendation, and if anybody can throw any light on it, I'd be....

MR BECKETT: Well people generally go to the committee for their purposes, but what the committee does...well it's a one-way street.

MR BETTS: Yes, yes; if they don't grant it, and they persist in the infraction, they can prosecute. The next one, the Incorporation of the Planning Act-I think that was referred to earlier in our Brief and was read by Mr Davidson. We felt if possible, after reading it, and to the extent convenient, to have as many of the municipal statutes incorporated into one Act, if for no other reason than that people could carry it in one book...

MR BECKETT: The Committee feels that way.

MR BETTS: Well then the next one-the passing of official plans-this is rather a radical suggestion which comes from our Planning Director, perhaps suggested as much as anything by the mass of detail which faces today, an urban Planning Board. The Planning Board is charged, I think, primarily with the introduction and recommending of an official plan; and if I read the legislation correctly, that perhaps should be its primary duty to have its eye on the official plan at all times.

MR SINGER: And your official plan should be much more than land use...it should have projected utility construction and future capital budget, sewers and...

MR BETTS: That's right, Mr Chairman, the point I'm making is that our work on a planning board should be much more, revising, reviewing the official plan and so forth, whereas the practice if I might so speak, of the planning board tends to be day by day buried in a host of details...recommending to council a host of area planning; and I think this is an attempt on the part of our Planning Director, who suggests that the county should be the one to recommend to council, the official plan, and have its eye on the official plan at all times; and perhaps the local planning board might in the local municipality recommend to council the rezoning to implement the plan.

MR SINGER: I was trying to make another point; you go along with this recommendation and you are in fact suggesting that your unit of government be the county.

MR BETTS: We're not going that far...well, it is really a suggestion on our part to try to relieve the local planning board of the mass of detail that obscure its intent. Perhaps we haven't got the right solution.

MR SINGLER: With this, your local board wouldn't have much function.

MR BETTS: The local board would concern itself with zoning and recommending to local councils how best to operate to implement the official plan.

MR BECKETT: Then the developer would have to go through...they're studying that in Metro now...it would be the same as Metro.

MR BETTS: I'm afraid it would, Sir; I would like to say from my own experience on a planning board, and I've sat on the planning board for some years, and we've spent very little time planning, although we start out to do so; but we never get to it because of the mass of detail. Now the next, Exercising Powers by By-law, I dealt with that really and Deferred Widening, Mr Davidson touched on that. But I would like to say one word, Mr Chairman, on something that isn't in the Brief and we have no solution for although we have discussed it; one aspect of planning that did give us a certain amount of difficulty, and that is to what extent the planners...the Planning Board is supposed to go. It's supposed to prepare an official plan with regard and facilities for the health and the welfare and... health, safety, convenience and welfare of the inhabitants; and Planning Boards have applications to amend the official plan or to rezone which turns not on land use control, but rather on economic factors. There's a supermarket here, and another supermarket wants to start a quarter of a mile down the road. Now the planned land use control there couldn't be a site there for a supermarket, and the Board is sometimes faced with the argument that the second supermarket is going to come into economic competition with the first, and the planners generally feel that particular aspect....

MR BECKETT: Wouldnt they be in competition?

MR BETTS: Well that's the point....

MR SINGAR: Free enterprise....

MR BECKETT: Competition or straight monopolies?

MR BETTS: Well that's my point precisely, Mr Chairman, and the committee have considered some sort of an amendment to Section 1, subsection 8 where it talks about the official plan. (chit chat and comparisons and jokes)

MR BECKETT: Have you gone to the Municipal Board?

MR THOMAS: We've got a similar situation in Oshawa right now.

CONTROLLER FULLERTON: Mr Chairman, the Municipal Board asked us to consider that aspect, to consider it and to hear the delegation on it..the matter of the economic development and we were absolutely dumbfounded.

MR GREGORY: We're asking for direction here.

MR BECKETT: I know, but after you have referred it back to the direct representatives; they're the ones...

MR BETTS: The point I'm making is that in my submission on the Planning Act is that the Planning Act is wide enough to allow the Planning Board to control the economy of the municipalities and it's our duty to...

MR BECKETT: Well I think you can go further than that-I'd say the Planning Act plans a (several talking at once here)

MR BETTS: Thank you very much, Mr Chairman.

MR DAVIDSON: May I add another thing, Mr Chairman, question of consolidation of zoning by-laws. I think there should be some legislation which would...not enabling legislation, I know, but some legislation that would permit the consolidation of amendments, and yet carry on the deadline of non-conforming use...we have non-conforming use...I think it was made in 1949 when the by-law was designed; we want to bring that up to date and pass an amendment of the by-law in 1959, and we may, under the present legislation, wash out the deadline and then go back to 1959 for non-conforming uses. There should

something in the Planning Act which would protect the piece of the original enactments, even though the by-law is consolidated.

MR BECKETT: Could you put that into a consolidating by-law?

MR DAVIDSON: I don't know how you can because the Act says that no by-law passed under this Section shall apply to the use of land as it was on the date of the passing of the by-law; and the amendment of the consolidating by-law has a new date, and yet it may not be in respect to any particular use, and you change that use, and it might permit new uses to be introduced which would be legal and non-conforming uses, yet your amendment bylaw can come to a test case and not the case you

MR BECKETT: There's only been a recent bylaw....

MR DAVIDSON: Well that's the way we've done it in London and we also got special legislation in regard to enabling by-law; but with regard to these by-laws that are coming up, such as the by-law on trades and driveways and so on; they do come up, and this is the only way at the moment we can see to solve them. (chit chat here sotto voce) Well I don't know what the test will be; we haven't tested it yet. In the face of this Section, no by-law passed under this shall apply to the use of land as it was on the date of the passing of the by-law. Now the next page deals with Separate Schools and suggests that all the matters pertaining to schools should be gathered into one Section. I'm not prepared to speak on that-that's for the Separate School Board.

MR COOPER: If it were adopted, Mr Chairman, it would consolidate these matters and we bring it forward as their suggestion without comment.

MR DAVIDSON: Mr Ferris has prepared a very intensive study and a diagram with regard to a draft proposal to consolidate all the provincial grants...it would take a great deal of time to work out, I know. I think one general matter I should call to your attention, that is there should be advances under the Unconditional Grants Act either monthly or quarterly.

MR BECKETT: We've had Briefs on that.

MR DAVIDSON: Now the Voters' Lists Act and we have the Labour Relations Act and the Police Act being some suggestion from the union, I think. Now in the City of London, the Police Commission employ police of course, and also civilian employees. There was an application by the union to have themselves declared the bargaining agent for the garage employees. I think I can only say it was heard by the Chairman of the Labour Relations Board who said, as far as they were concerned, they came under the Police Act, and they continued to give them bargaining privileges.

MR BECKETT: Section 89, we've had several Briefs on it.

MR COOPER: I don't think the municipality has taken any view on that.

MR DAVIDSON: The next is the Surveys Act, and there is only one suggestion there, and that is in regard to the closing roads or lanes (reads) "It is suggested.....closing order." And certainly there should be no costs on the municipality.

MR BECKETT: It says "shall" in there and it says "may" here.

MR DAVIDSON: Yes, it "shall" be determined by the Judge. Now the Jurors' Act which is rather a....(jokes and chit chat) I think we'll have to leave this as it is written in the Brief.

MR BECKETT: It speaks for itself.

MR DAVIDSON: There is an addendum to the Brief with regard to Child Welfare Act-you have the copies distributed. I think it speaks for itself, and (b) Section 208 in regard to municipalities having a population more than 45,000; and in (c) the Planning Act it suggests that it be clarified whether the municipality has the power to charge in connection with applications for Consents to Register and for rezoning. This is costing the municipalities a great deal of money. Consents to Register cost the municipality maybe not in the same proportion as the rezoning, because re-zoning is very expensive.

MR SINGER: Some of the municipalities already do charge.

MR DAVIDSON: Well we think it is proper for the mun-

icipality to charge but it should be so written in the Section.

MR JEFFERSON: The council is split down the middle on this.

MR COOPER: The submission is that if we are to charge, the fee be nominal.

MR BECKETT: What advantage is that?

MR COOPER: Well it's to discourage frivolous applications-we find a man puts in an application and a few weeks later, he comes back and three months later he files again, and he's just testing the market, putting out lines to see...

MR BECKETT: But why should the ratepayers in a municipality pay for this; it's a matter of paying for a bylaw to suit your purpose and not the rest of the municipality.

MR JEFFERSON: It's the zoning by-laws that we have a question about....

MR BECKETT: If I want to change my lot from single family to multiple for my benefit...notices have to be sent out to say 300 people; it's got to be a hearing before the Board...well. Then too, suppose you want to reverse it-supposing you want to re-zone it for a lesser use. (chit chat re zoning)

MR DAVIDSON: One last subsection here, Mr Chairman. this one is with regard to voters lists...the lists of appeals. At the present time, these appeals are prepared in subdivision order... (reads (d) "that the list be prepared in..... and number."

MR COOPER: Our theory is that names should be taken in the same order in which they appear on the voters list so as to expedite our preparation of the amended lists for...you hand them out to the candidate on nomination day; the present Section says, Mr Chairman, that you must arrange them in accordance with the requirements of the Assessment Act when you go to the county Judge, and we feel this is completely wrong because it doesn't follow either of the two methods of preparing your voters lists; it's cumbersome and inefficient. This is for simplifications purposes only.

MR BECKETT: Thank you Mr Davidson. Would any other members of your delegation like to say something?

MR BETTS: Would it be in order to say how much we appreciate the opportunity of appearing here?

MR BECKETT: Anything is in order.

CONTROLLER FULLERTON: We feel we've had an excellent hearing, Mr Chairman, and we thank you.

MR BECKETT: Well without your assistance, the Committee couldnt really get on at all. How many Briefs altogether now, Mrs Rowan?

MRS ROWAN: Eighty Briefs.

MR BECKETT: And how many replies to the questionnaire?

MRS ROWAN: We had over 400 replies and 340 usable replies on that.

MR COOPER: That's very very interesting.

MR BECKETT: Well, thank you very very much, and if you have anything further, please let us have it; we will be here for some little time yet. Thank you very much.

W. C. C.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-SIXTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY,
 JULY 18th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer

APPEARANCE:

Oakah L. Jones
 John M Gifford
 Thomas D.J. Healy

PRESENTATION:

ORAL SUBMISSION - THE CONSUMERS' GAS COMPANY

CONSUMERS' GAS COMPANYHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Well Mr Jones, would you like to introduce your delegation to the Committee?

MR JONES: Mr Chairman and Gentlemen, I'd like to introduce Mr John Gifford, who is Personnel Director for our Company, Consumers' Gas. Mr Gifford was in this last war; he was with Cadalaic over in Sarnia for a while; he was with CIL, and I thought, Mr Beckett, you should meet him, because John has taken an active part in community affairs. And the other gentleman is Mr Healy; Mr Healy is one of the younger men who works with our company in an advisory capacity, and both the men came along this morning because I thought they should meet you gentlemen and see the calibre of men who are representing us in the Government of Ontario. And also that you should see the younger men because with me being an older man, I want you see some of the young fellows coming along in our organization.

MR BECKETT: We appreciate it very much, Mr Jones, and any time that you want to come back, we are meeting on Wednesdays and Thursdays of each week during August, and any time anyone would like to come before the Committee, we'd welcome it. Now you may start anywhere you like and proceed.

MR JONES: Mr Beckett, I am the President of the Consumers' Gas Company and am active in a number of civic, church and other affairs in the community. We respect very much the work of your Committee, that is, the Select Committee on the Municipal Act and Related Acts, and what it is trying to do; because we know both from personal and company experience the bearing that the Municipal Act has upon local-let's say, grass roots in this province. And when I asked for the privilege of appearing before this Committee, it was instantly granted, as I was sure it would be; because this is one of the Committees I have known as a hard working Committee, and one that listens and is interested in the viewpoints of the people, let's say, down the line. I was concerned, Mr Beckett, when this last winter the Act was passed amending

the Municipal Act-I'm speaking of the revision of the qualifications-I'll find the Section here- it was the substitution in Section 35, subsection 3, which says that formerly under Clause (a) of subsection 3 of Section 35: "a person is not disqualified as a member of council by reason only of his being a shareholder of a corporation that had dealings with the municipal corporation." And the Clause (a) was re-enacted to provide "that such a person loses this exemption from disqualification if he is an officer of a corporation or has a controlling interest of such corporation." And when you look at the new Clause (a) it says, and I think I'm giving a loose interpretation, but we'll check with the attorneys here, it says that if a person is a director, manager, secretary, treasurer, secretary-treasurer etc, that he can be or may be disqualified; and the interpretation that is given to me on that is that if one of my Vice-Presidents or my company's Secretary or my company Treasurer should want to run for office at the municipal level, that they could be disqualified, and the fact that they could be disqualified, we'd have to accept as a fact that if anybody asked for disqualification, then that they would be disqualified. On the one hand, and while I'm speaking for a company that furnishes gas service, I think we have to...I've talked with a number of my friends in industry and they now realize that the same thing applies to them; but I don't know whether the framers of this Act realized that while on the one hand, a company such as ours is compelled to furnish gas service to anybody that asks for it; we cannot refuse it. And that on the other hand, if we furnish the gas service, I as the President, or my Vice-Presidents, or others must immediately be demoted from being a Vice-President or Secretary-Treasurer- those who have worked years to get up to that position, we must with one hand be forced to furnish service; while on the other hand if they want to perform their civic duties, which is running for office in a municipal council, they must immediately be disqualified.

MR BECKETT: In other words, Mr Jones, they may be put into an inferior class of citizenship- they don't rank with the rest.

MR JONES: Yes. I think I'm trying to say that this

was not considered, but really I have been going around among our employees, and in the past two weeks, we've had 31 individual meetings with our employees, talking about the future of the country; frankly I've been saying that regardless of what they might read or hear, that we don't believe that Canada doesn't have a future; we believe that Canada does have a real future, and that we think that despite the story of tight money, we talk about in our company as more costly money. But we still think that the country has a real future. But we also have been saying to the employees: Now here's our company policy, and we are repeating it to you, we will encourage you to run for office. We have men that have been Reeves of communities and others, and we have encouraged them; and they have their job and all their rights are protected, because we think it's the responsibility of a citizen to not say: Somebody else do my work for me, but you do it and it is the responsibility of a company to encourage them. There shouldn't just be lawyers or farmers or doctors or insurance people in government, taking and sacrificing for it; we think that we have an obligation. And so we have been encouraging them. Now on the one hand they come along and say: If you want to run for office, you'd better be sure you're not an officer; because if you're an officer, you can be disqualified. I'm taking myself as an example; if at some future date, people should say well why don't you run for office, Mr Jones, I would have to say: Well I can't run for municipal office, unless I resign from the company. I can't just disqualify myself from voting on something that has to do with us. I'd have to resign from the company. Now I'm too old to start with another company- and after all I still need my pay to live on.

MR EVANS: Mr Chairman, I don't think actually that was really intended in the Act- it wasn't the intention but it is there.

MR BECKETT: That's the interpretation.

MR EVANS: It is the interpretation, yes Sir, and it takes away...everybody has an obligation to their community, and it takes away from them the...actually being able to carry out that obligation.

MR BECKETT: And as a matter of fact, Mr Evans, I think we've preached for years that everybody should take an active part

in their community.

MR EVANS: Sure they should; it's their duty to to take part.

MR JONES: I say, Mr Evans, this makes me and my officers, and the Secretary of our company, by the way, is a lady; and if she wants to run for office, she's got to resign as Secretary of the company, or I've got to demote her; and yes, to put it real bluntly, I think it makes second class citizens out of a group unintentionally. Because certainly when you take away...if you take away the right to vote, you'd call it second class citizens; if you take away the right to represent your fellow citizens, if he wants you to, then it makes him a second class citizen.

MR BECKETT: And on the other hand, Mr Jones, we had a Brief the other day, and they suggested in the Brief that this disqualification should continue; because they say if he doesn't hold an office when he is elected, maybe he will be an officer after he is elected; therefore they say the Act should be amended to disqualify him at any time.

MR JONES: Well, Mr Beckett, look....

MR BECKETT: I just want to say, Mr Jones, you get the other side of it; and we don't know what their object is in saying this, but they put that in writing.

MR MORROW: Well they fear a conflict of interest.

MR JONES: Well I certainly agree fully and completely that when a matter comes before the municipal body that you're elected to, that has a personal interest, that you should disqualify yourself from voting, just as you would in a Board of Directors; but may we look at it this way, this country, Britain, has grown...they grew great, and the United States grew great, based upon the honesty of people- right? If it were not that you could trust people, where would we be today? Everything is based upon trust. I know it from within our own company. We sell gas without deposits; we don't take deposits any more except from a very few people who have poor credit. We sell gas without deposit; we sell gas without it ever being paid for; all

have to do is turn on your range or your furnace and you get the gas; it's all done on credit, and our losses are peanuts because people are honest. I think you will agree from your experience, wont you, that people are honest. Now this starts out on the assumption that people are dishonest, and therefore because you are a president or a vice-president or an officer of a company, you're basically dishonest.

MR BECKETT: You see, Mr Jones, we've had municipal institutions for 112 years, and because over that period, there's been 3 or 4 municipalities requiring investigation, a certain percentage of the public say: Well, maybe anybody that gets elected to office they are going to try to have machinery to try to make him honest, by law.

MR EVANS: Well most of these municipalities that have been in trouble, there've been high priced reeves and deputy-reeves in councils.

MR BECKETT: Yes but the percentage of 974 municipalities in over a period of over 112 years-it's so negligible, Mr Jones, and yet one little bad apple gets a lot of people all worked up.

MR JONES: That's right, but...and I agree that everything should be done to keep people honest, but I dont think that you should, by law, take away from a group of people, their rights under the Bill of Rights or Constitution or the Magna Carta or anything else; this is flying in the face of everything that is inherently right in our municipal government, because you're saying to a certain group: You may not run for office in a municipal group, and how did government grow up? It grew up through town meetings, didnt it? And then you're saying that these people should not...well should we say that a man who is a farmer and president of a co-op, should he not represent people on the council? Should a man who is the president or treasurer of a union, should he not represent his fellow man on council? Should a lawyer, who happens to be a professional man and an officer of a company, should he not be able to represent the people because he's a lawyer? Well then, where are you going to get people to represent you?

MR EVANS: We're going to get second rate people running, I'm afraid.

MR BECKETT: Yes, and if you cant pick people who are the tops in your community, then who are you going to have.

MR JONLS: Well, at this point, Mr Beckett, I'd say this, I'm anxious myself, and to have my officers and all men and women in our company, have the right to run for office, and either to get elected or defeated. If they're elected, I think they should have the right to hold office, and that no Act should be passed by a senior body, which is the Provincial Legislature, to say that we should not have the right to hold office- yes we should have to disqualify ourselves or show the interest in any particular subject, but we should not be placed in the position of not being able to hold office once we are elected to that office by the people at large; because it is the people who elect us-this is a democracy, and this is flying in the face of democratic action.

MR BECKETT: Everybody should have that opportunity; as a matter of fact, to make true democracy work, perhaps everybody should serve some time in some public capacity.

MR JONES: Well that's my appeal to you to try to get it changed.

MR EVANS: I quite agree with you.

MR JONES: I really dont believe it was intended that way.

MR BECKETT: You can take a small community where everybody is interested in a business, and to me that's a healthy situation to have in the Province of Ontario- all business in the local community are interested and their owners are serving on councils, or on any other public office. Well under the Act, the chaps that are in business might be disqualified, and they may feel: Well if the government doesnt feel we're qualified to sit on the local council, we're not going to take the trouble to run.

MR JONES: I hope...well while I'm speaking for the larger companies, I'm really speaking for anybody, because it takes all kinds of people to make a community go; and we're all the time talking we need people to vote and we wish we could have more people run for office. Well all right, let's do it.

MR MORROW: I think, Mr Chairman, that Mr Jones appreciates the viewpoint of the Department...perhaps the government should say with respect to this matter that this piece of legislation came about by the pressure upon the Department not to allow the executive officers of companies to hold municipal office because of the fear of conflict of interest and the pressures that are brought upon them in this regard.

MR JONES: Mr Morrow, let's take an example, take Mr Gifford here; he's been in the service four years; he's got a good reputation in the community, while Mr Kelly, our Vice-President of Operations is a younger man; he's very much interested in political affairs. Mr Lee, our Vice-President of Gas Supply-Mr Lee is a highly professional individual with the Ontario Research- he's a man probably of 42 or 43; Mr Joe McCarthy, our Vice-President and General Sales Manager- Joe was in the Air Force; he has been with us a number of years. Joe is probably about 40. Warren Hurst-Warren is a Chartered Accountant, and you know the requirements of a Chartered Accountant. Mr Lee is a Professional Engineer and Mr Kelly is a Professional Engineer; you know the codes those fellows have to follow; and yet we say under this Act, that those men may not run for office...oh they may run for office but they may be disqualified. Are those the type of men we don't want in government? Here I am on the one hand saying: I'll support you and help you; do you think they're going to take a selfish interest of the community, the people of Spadina or the people of North York or the people downtown here- are they going to take the selfish of a company that they represent against the people in their community? You know they are not. They're citizens first and employees second.

MR EVANS: You may want to run for council in a municipal township like the ones... .

MR JONES: I may want to run myself, but I don't want to have to quit and go and ask for Unemployment Insurance or something because I still need my pay with taxes as they are. For example, and a good one is my secretary...I mean Secretary of the company. We were one of the first companies to have a woman Secretary. Now if she

wants to run for office, she's got to resign; and yet there is no more honourable, honest woman than Miss Geary.

MR BECKETT: In other words, Mr Jones, if you wanted to run for council of Innisfill, you'd have to resign yourself and maybe not have a job.

MR JONES: That's right, because at my age who's going to hire me. I don't think it was intended that way; it is just one of the things that has slid in, and there is the interpretation, and I say with the type of men we have in this Committee, I think you can take some steps to get it corrected. And I think it is important to not have any group of citizens as second rate citizens, and that's what this makes people. The next step is to say that the man who is president of a co-op-he can't be either; or a man who's the president of a union-he can't be either. It's just as fair to take them all. Once you start, where are you going to stop?

MR BECKETT: Well, Mr Jones, I think it's very admirable that you, as President of the Consumers' Gas Company, and you say a small company, well we know it not only covers the Province of Ontario, maybe more than that- to come here and take your time to deal with a Section of the Municipal Act-naturally we thought you were coming to talk about pipelines and the Assessment Act, when we have had Briefs, as you know on that line; but to come here and talk...to tell this Committee your concern on an amendment to the Municipal Act. It's very admirable.

MR JONES: Well Mr Beckett, I appreciate the chance to come; and I wouldn't have come if I hadn't thought that this group would be willing to listen.

MR BECKETT: The Committee only wish that more men in your position would come and express their views.

MR JONES: I'll try to encourage them to do it, because we can't just depend on you fellows to do the job for us.

MR BECKETT: We need your help.

MR GORDON: I know, Mr Chairman, that in Brantford we have a man by the name of Frank Stern, one of the heads of the Stern

Chemical Co- he's passed away now- and Frank was very very interested in municipal affairs, and he would always...often made the statement that every citizen should put at least two years in some elective office to serve his community. And as Vice-President of the Stern Chemical Co, under this Act, he wouldnt be able to serve now.

MR BECKETT: That's right. How do you think it would be if we had such a thing as compulsory municipal service for every citizen? So they could learn how democracy works; and I think they'd have a different view to these suggested amendments to the Act.

MR JONES: Well Mr Chairman, if you can have as attractive ladies as you have here this morning working with the Committee, there would be a lot of men happy to serve.

MR MORROW: Here here.

MR EVANS: It's easy to see, Mr Chairman, how Mr Jones became president of Consumers' Gas. (laughter)

MR JONES: Thank you for your courtesy, Gentlemen, and thank you, Mr Beckett.

MR BECKETT: Thank you for your coming before us.

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THE TWENTY-SIXTH MEETING OF THE
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AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
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Toronto, Ontario

WEDNESDAY,
JULY 18th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer

APPEARANCE:

G.D. Hepditch

PRESENTATION:

BRIEF - ASSESSOR, COUNTY OF ONTARIO

G. D. HEPDITCH, ASSESSOR, COUNTY OF ONTARIO

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: All right Mr Hepditch, please come up here. Now Mr Hepditch, your Brief has not been read by the Committee, so if you care to read it or proceed as you wish.

MR HEPDITCH: Thank you, Sir. Gentlemen, first of all (reads Brief, page 1) "as a ratepayer and an..... must be granted." (bottom, page 1)

MR BECKETT: Just there, would you consider it on the basis as we do business assessment? A percentage?

MR HEPDITCH: On farms, Sir? (yes) No, no, I...

MR BECKETT: Take actual value in the first instance, and then say, well we'll give him a tax exemption of a certain percentage?

MR HEPDITCH: Yes, take England and Scotland. In England, farm lands are exempt- agricultural property is exempt. In England and in Scotland they give 85% of the assessment as an exemption; or they tax it differently, and this would be feasible, I think. Of course I believe myself personally, Sir, that we should only assess maybe the dwelling house-I'm talking about for school purposes primarily- this is where the big question is; should the farm, the back 40 be assessed for school purposes?

MR BECKETT: When you mention Scotland and England, then you were then talking about school taxes?

MR HEPDITCH: No, I'm talking about general taxes, as the general taxes-in England they're exempt; and in Scotland they just add this percentage; but I favour and I advocate myself the assessing of the certain one acre of land or a certain measure of land plus the farm dwelling for school purposes only. (continues, page 2 para 1) "4. I further believe.....newly established tribunal." (page 2, para 3 line 3)

MR BECKETT: Who would set it up?

MR HEPDITCH: Well I believe that the Legislature should set it up. And this could be a tribunal...I'm not too happy

Sir, with the Ontario Municipal Board, and I believe that we should have some sort of a tribunal somewhat similar to that of that recently set up in the United Kingdom, the Lands Tribunal.

MR BECKETT: Now that may be here under the Report of a Select Committee dealing with expropriation and compensation; and in this tribunal, they deal with all those matters. A tribunal like that may be able to deal with assessment matters.

MR HEPDITCH: I think it should, Sir, rather than the Ontario Municipal Board. But one thing I would like to see is that any of these tribunals...now I don't like any extension of the administrative law- the less extension of the administrative law the better. But however, it seems to be the trend towards the administrative law, and we have administrative bodies of this sort. But we do and I believe we should have rules of procedure for practice, and how the evidence should be taken, so that persons when they come before these tribunals, will know how they act or how they should act. But if you go in front of the Ontario Municipal Board, it seems to me that some...that the rules of evidence are very slipshod; at one time you can bring in some sort of evidence, and the next time you try to introduce this evidence, why it's not acceptable, and they won't hear you.

MR BECKETT: Of course administrative boards are not bound strictly by the rules of evidence as practised in the courts.

MR HEPDITCH: I agree, but at the same time, I think that the Committee reported in the United Kingdom that this was something that could be set up and I can see no reason why the administrative body couldn't have rules and procedure, Sir.

MR BECKETT: Yes, I've read that Land Tribunal Act.

MR HEPDITCH: (continues, page 2, para 3 line 3)
"This tribunal..... correct legal practices." (page 3 end of 7)

MR EVANS: On (d) that no person be permitted to serve if she or he had been a member of council within a stipulated period- why?

MR HEPDITCH: Well there is a tendency...this is not a brickbat at councils....but in some instances...well I think it would

be better if a period of years, say two years or even one clear year after he or she has been on a municipal council, to be away from the local pressures...to maybe have a period of time off the local council. (continues, page 3, 8) "While serving as a County.....
.....and the workload." (end of page)

MR BECKETT: Is that a kind of supervisory position?

MR HEPDITCH: Well, Sir, the level of competence of many part-time assessors hired byespecially the small municipalities who cant pay very much- the level of competence leaves much to be desired; and if full-time, properly trained assessors could be given a district-more than one municipality-where the municipalities are small- and depending on the work load. This I submit would be more efficient and in the long run, a saving to the tax payer. At the present time, the system is such that one may suggest to the local assessor, but you may not correct; and this leaves very much to be desired in proper assessment practice.

MR BECKETT: There are many of these untrained people?

MR HEPDITCH: Unfortunately, there are some, especially in the very small municipalities, working part-time, who are not trained and in some cases, not competent to value property. I know this is not an easy thing to do to go to the grass roots and suggest abolishing part-time assessors and appointing full-time, or having them appoint full-time assessors for several municipalities; it smacks of bureauacracy, and I regret it. But to achieve a proper system, someone has to take the bull by the horns. Look at our school system; they work on the inspectorate system. The District Assessor could be comparable to the Inspector whose function is to supervise and direct, not to cajole, suggest or play politics. I'm speaking, of course in general terms when I compare the assessment system with the school system. Or there could be a County Assessment Commission to direct with a county assessor and possibly 20 assessors; there, of course would have to be possibly 2 supervisors or deputies for this type of set-up.....

MR SINGER: Which comes first the chicken or the

egg? With roughly 1000 municipalities hiring 1000 assessors, how in the world are you ever going to get these municipalities to do this?

MR HEPDITCH: I admit that does create a problem, because most of these have a part-time local assessor now who has another job; in the smaller municipalities, he is sometimes a farmer, or an agent- sales agent. In the towns, he is often the dog catcher or municipal clerk or some municipal employee who has six or seven functions. In the cities, of course, there are full-time assessors properly trained in most instances. Now I don't think you should use the big stick, but there are pressures that can be applied by the government or inducements as was done with county assessors, and I am sure when the municipalities are convinced that this method....these men can do a good job and save them money-it will take a little time-but I believe these difficulties can be resolved....

MR SINGER: Are you speaking of districts as a division of government?

MR HEPDITCH: No, I meant assessments districts.

MR SINGER: Would this be with 100,000 or 50,000?

MR HEPDITCH: Well no, 10,000 to 15,000.

MR BECKETT: Including townships?

MR HEPDITCH: Yes.

MR BECKETT: But not cities?

MR HEPDITCH: Well the cities have their own assessment departments usually hiring a number of full time assessors; one city I am thinking of has 26 assessors including both full time and part time assessors which costs \$100,000 to do the job for that city.

MR SINGER: But wouldn't we in fact be creating another bureau?

MR HEPDITCH: We can tell you that when Nova Scotia adopted a similar system, they had 700 odd assessors; now they have 92.

MR MORROW: But you feel that this could have the resultant situation here as they have in Nova Scotia where they only have a percentage of the present number on the assessment.

MR HEPDITCH: I believe that it would be possible to

create...the big problem, of course, would be Northern Ontario; but it would be possible, I think to reduce the number of assessors to about one-third at least in Ontario.

MR SINGER: Couldnt we do that with the county system?

MR HEPDITCH: Well I dont know, but in many instances you would create supervisors, and I dont think you're going to increase ...you see you're going to have one head and he will have one deputy you know that Parkinson runs them up

MR SINGER: But a head and a deputy....

MR HEPDITCH: An inspector and the assessor who is a full time assessor in charge of the district; and he would be responsible to the local municipality or to the constituent parts of the municipality of which he is the assessor.

MR MORROW: Are you suggesting that he use the local assessor that is there now for any particular purpose?

MR HEPDITCH: Well no; but if the local assessor is competent, yes. But all I'm asking is that should we go into the county assessment system...I mean as a commission? Why not return powers to the county assessor as contemplated to the district assessor in the Act at present- give him further powers and see if it will work.

MR BECKETT: What further powers?

MR HEPDITCH: Well the powers to direct, and I mean direct, the powers to make certain that...if he says that no person shall be hired or appointed as an assessor in a county without some provision for the county assessor to sit in to see that a proper person is hired....

MR BECKETT: Subject to his approval.

MR HEPDITCH: Yes, subject to his approval, as it were.

MR SINGER: Give him the power to order a district assessor to change the roll?

MR HEPDITCH: Yes, it believe this....

MR SINGER: The county assessor is the assessor then.

MR HEPDITCH: Well no....

MR SINGER: You can order him to change the roll and you give him the responsibility to see that his district assessor does the job properly....

MR HEPDITCH: Well that's true but....

MR SINGER: And if the district assessor doesn't do the job properly, the county assessor can call him to account on it.. (yes) you're still, I think, just playing with words in saying the county assessor shall have the power and the responsibility to make sure that the district assessor does his job.

MR HEPDITCH: Yes but I still think that...here's the whole thing-what will happen in the municipality? Will there be a tendency in persons in Toronto-now I know that they have in Metro Toronto...we'll take North York...a ratepayer in North York can go up to the North York Office and see the area supervisor. But he also has to travel down town if he wants to see the Assessment Commissioner, and it may be rather difficult for him to get in there if he's just a little ratepayer. There's a tendency, I believe, that you could have had North York still running their assessments. And I don't believe that Swansea could have run their assessment, because it wasn't a full time job.

MR SINGER: Or Forest Hill. It would have been feasible for North York to run their assessment and the City of Toronto could have run their assessment using their personnel. The Gray system- 1940 budget- it was 15.7% and in 1945 it was 25%. I don't think this is right.

MR HEPDITCH: There ought to be one standard system; in the Metropolitan Municipality of Toronto...they would have an Inspector of Assessments-this is the system we operate, and each municipality within the metropolitan area will do so...or else...

MR BECKETT: We would get right back into assessment equalization...

MR SINGER: The man who says, "or else", is in fact, boss....

MR HEPDITCH: No, I don't think we're getting back into the equalization; I think the "else" would prevent that.

MR SINGER: Yes but the man who says, "or else", is boss and whether in fact you call him an inspector or an assessor, you're saying the same thing, aren't you?

MR HEPDITCH: Well, that's true but I wonder if the ...you see we haven't tried it. I know what the difficulty is; as a practicing county assessor, I have no powers whatsoever. My only power that I have is the power to appeal. And I'm loathe to exercise this power because first of all, if I exercise it in my county- I have the County Court of Revision, so if I exercise it...if I feel that the local municipality is being prompted and being persuaded by their local councils to sort of...we'll say if this is the case, I would be silly to appeal because....

MR SINGER: Because your appeal would go to the local Court of Revision and you have local people...

MR HEPDITCH: That's right. So I believe that there should be some provision so that I can have greater control of the assessments, and...

MR SINGER: You should be able to direct the assessments-this is what you are saying.

MR HEPDITCH: Yes. But I still think the local assessor can do it.

MR BECKETT: And yet wouldn't you want to be the county assessor under the Act?

MR HEPDITCH: The county assessment commissioner? No, not necessarily. I personally believe that is not necessary.

MR BECKETT: Well whether it is necessary or not, do you disagree with the principle?

MR HEPDITCH: No, I don't disagree with the principle; I think it's workable and it is workable in the United States of America. But when we talk about county assessments in the United States, we find that you had two types of county assessors. You have the county assessor who does the job and appoints deputy assessors; and you have the county assessor who acts as an inspector to see that the assessments are done in conformity with the statutes; and he has the

power to ask them to return the new roll.

MR SINGER: Or resign.

MR HEPDITCH: Yes, or resign-the local assessor; but the local assessors do the job.

MR BECKETT: And then did you find that the city in the United States may employ the county assessor.

MR HEPDITCH: Yes. Well we discussed 9, Sir. One last point- (continues, page 4, 10) "The taxing of summer cottagesthe business assessment." Why I put this in, Sir, is that there is a growing tendency to tax summer cottages-the municipalities regard them as milk cows...

MR MORROW: I fully subscribe to that. We have quite a war going on down our way now in the resort area in Carleton, and I know cottagers are all up in arms and holding local meetings. They sent a delegation to see me from a number in the area, and they figure they're paying the whole shot for the township; and they're there for a few weeks in the months of July or August.

MR HEPDITCH: Well this is what happens, in my county, we have three or four municipalities that have summer cottages; and we have tried in my county- and this is the awkward part- if you have the same level of assessment based upon the actual cost-we've run a sales analysis in my county- and I know that I assess at 1940 values because of the grant structure; I'll be honest. But we nevertheless assess summer cottages having regard for a sales ratio. And these summer cottagers are paying through the nose for what they're getting in the way of...

MR MORROW: They're paying the majority of the township taxes for their three weeks stay there in the summer.

MR HEPDITCH: True. In our area where there are no summer cottages, the assessment is around 60 mills; where there are summer cottages the tax is around 40 mills. Now I believe that many of the summer cottage properties should be relieved from school taxation. But I don't think the summer operator- the man who is conducting a business - a resort business- should be given relief.

MR EVANS: In Ontario County, do they have special levys for roads in cottage areas?

MR HEPDITCH: Yes they do; and if they want garbage collection, they make them pay; they make them pay for everything. and then, the difficulty, of course, is the Medora and Woods case- I dont know how this will work out- I think it is a bad decision and should properly be appealed-appealed before the Supreme Court of Canada; but however that is as the case may be. But we're going to have more of this- and this is going to become a vexing problem. We cant have an assessment differential-I dont think we should assess summer cottages differently than we assess other properties, but they should be taxed differently. And I think this is an area where there should be some relief given.

MR EVANS: Do you think they should pay school taxes?

MR HEPDITCH: No, I dont think they should pay school taxes.

MR MORROW: They're paying school taxes back where they're sending their children to school, and they shouldnt pay school taxes in an area where they have a summer cottage.

MR HEPDITCH: I know districts where there are summer cottages and I know, and this is the ridiculous part...you talk of equalization. I know of a district not too far removed from the County of Ontario- a political district- where there is a township, where the assessor set a summer cottage, no matter what its worth is, it is \$100 and any lot for \$100. This is good equalization, but it's not right. Well thank you very much, Gentlemen.

MR BECKETT: Well Mr Hepditch, thank you very much; it's very enlightening to hear your remarks and suggestions.

MR MORROW: Maybe Mr Hepditch, Mr Chairman, would like to discuss a few points that were brought up on that Brief that was submitted by the Association of Assessing Officers of Ontario, which we covered last week.

MR SINGER: Mr Hepditch was here that day.

MR MORROW: Was he here the day that Mr Manning was

with us- the day he spent about half an hour on the Brief of the Assessor's Association.

MR SINGER: That's Mr Hepditch's association; you might be putting him on the spot.

MR HEPDITCH: Oh, I don't mind being put on the spot.

MR MORROW: Well we spent quite a bit of time on Section 35 and the term "actual value" which you mentioned here today and in the Assessment Brief it says: "The term actual value has been considered by most assessors in Ontario to be the comparable value for assessment computed in terms of a definite base year in which the dollar value is reasonably stable." And you brought out that that can bring about quite a few inequities too, as the actual value of property last year and this year, we'll say, might be wholly different than next year and the year after. And it should really try to say some place that a normal value between the peak years where actual value is high and where actual value is low, that you should pick some sort of a base in between, and not necessarily... well in order to get away from these inequities.

MR HEPDITCH: Well of course there's a normal, and we had this in the Act, and they took it out because the assessors said there was difficulty; I never found any difficulty, because it's an economist point of view- a normal selling value or a normal rental value. And I think that actual value should be retained within the Act, because first of all, I do not believe that a person should go to the courts-that he should have some standard by which to make the assessment; and this is why I do not like to see any tampering with the words "actual value", because I believe that I'm an assessor- an appraiser- and that I'm competent to arrive at some measure of actual value; it may be an educated guess or an estimate, but I believe that I am competent.

MR MORROW: That actual value doesn't stay the same from year to year?

MR HEPDITCH: Oh no, no. And the difficulty, of course, when we're talking about actual value for market value, we're



thinking of future benefits; and the assessor, in my opinion, is limited by the fact that he has to take present use into consideration. But there's something wrong; first of all, if my property is being expropriated, the actual value or market value is of the date of expropriation. But if I go out and get chills or die, we have a different valuation at the time of my death-but it's all the same property and we may have three or four different values. Now of course in the value of being expropriated or condemned, the valuation of course, is based upon the certain things in the law regarding value to the owner, but in the Assessment Act, the rate payer...you have got to think of the ratepayer..I believe that the ratepayer should have some measure...now maybe if we had set up a direct land tax, maybe that's how it would be. If you were to crystalize an assessment and say that the assessor shall assess according to the manual...to a manual, and I believe this is wrong, because then an assessment is stabilized and you would have all manner of inequities. This is why a trained assessor- a person trained in the technology of appraisal, so they would know how to make their appraisal; and there's three approaches to that, shall we say or maybe more. But the three common approaches to value are, the market, the cost approach and the income approach. And I believe the assessor should be competent to use all three, and that he should arrive at actual value now....

MR MORROW: What about replacement value?

MR HEPDITCH: Oh yes, the cost approach, and then if you want to tax it, though I cant see the reason why; and you want to say the assessment as determined shall be 60%; the valuation is determined and the assessment is 60% thereof of the property or what ever it is. I cant see that this is necessary, but if it is felt necessary, then I think you could assess it at 60% or 50% or even 20% of the valuation. But I believe that somewhere along the line that any ratepayer can go to the court and make certain that the assessor has put out a proper assessment. I dont think there should be any arbitrary rules or anything; that the assessor should be arbitrary or anything else. But that somewhere there should be outside

standard or standards by which the rate payer or person seeking relief, can get some...well can make out what the assessor has done.

MR MORROW: Well then if I just may proceed a little further, Mr Chairman, Section 40, subsection 6, which is new, which your people have suggested," that on or before the 31st day of March in every year, persons or companies carrying on business under this Section, shall notify the clerk or the assessment commissioner of each local municipality of all assessable property owned by such person or company, which is located in the municipality, in particular, the length and diameter of all pipelines, all valves, meters, stops, regulators, services, producing gas wells and oil wells." Now the suggestion is there, that that will only compound the difficulties that are already there, and that the assessment should not change in this respect, as this is pretty well already standardized and this should have a standard measurement, and adding all this stuff will only compound the thing much more and make it more difficult.

MR HEPDITCH: No, I don't think...I have a suggestion that we should have an assessor...that the company should be valued as one integral whole, as one system, and then if it goes through a municipality, there should be some measure how to allot the value according to the usage, or something like that system- pro rate it out.

MR MORROW: It shouldn't make any difference how many valves or regulators or meters and so on- all those things.

MR HEPDITCH: No, but I believe that the system should be valued by a competent engineering authority. But I do not believe in a fixed assessment, because here's the whole thing: Around the 1890's or just when the telephones came into being, the telephone companies received a fixed assessment of so much a mile for its telephone wires. Now this has been ridiculous, I mean in townships, \$7 a mile or something for wires. Maybe in 1900, the telephone wires only cost \$7 a mile, because they put a soft iron wire and they were just little local lines. But today, I think we have a fixed assessment in townships where there are no gross receipts, where under Section 10, gross receipts are computed, that we have the Bell Telephone

Company with a fixed assessment. Now this is wrong, and I think this is what will happen here; we'll have a fixed assessment to get it off the statute books, and I believe that the value of the property should be computed, and it can be computed under proper engineering appraisal methods. And the Legislatures, in their wisdom, they should say: They shall be taxed at 60% or 40% or whatever the percentage, of the assessed value.

MR MORROW: . . . And how would you allot that to each municipality that it runs through?

MR HEPDITCH: Well I don't think that's too difficult; if it is a gas line, I think you've got to take the users- the gross receipts, as it were, in the municipality.

MR BECKETT: There might not be any.

MR HEPDITCH: Well then, maybe you can arrive at a per capita assessment.

MR MORROW: This would do away with the linear measurement...

MR HEPDITCH: Yes, and first of all, take Trans-Canada, a system operating in the Province of Ontario, and I think all of its holdings should be valued and then proportioned over; but not its pipelines should be singled out.

MR BECKETT: What do you mean proportioned over?

MR HEPDITCH: Well I mean, if it goes through the Sudbury district, and if it goes through a school district, and you want to give some taxes to that school district, then it should be maybe apportioned over on whateverone system could be whatever the per capita assessment is in that area.

MR MORROW: There's a little milking going on in some of these districts at the present time.

MR HEPDITCH: This is the difficulty, in one area you will find under this fixed assessment, you will find they are paying on one mile a different rate of taxes than they pay on another mile in another area or county; because of the fact that they have different mill rates. I don't think this is right either. I think there

should be equalization of taxes, not an equalization of assessment. The whole system should be evaluated.

MR BECKETT: But how can you do that when there is a different mill rate?

MR HEPDITCH: Well it is done; and this is something we've got to remember- this has all been worked out-I didn't bother to bring in any supporting information; but this has all been worked out in the United States for this past 40 or 50 years under the rate making cases. The state of Wisconsin has done a very admirable job of evaluating pipelines, and they've worked out the procedures and methods for rate making cases for taxing purposes that is quite different from what we have in Ontario. And they value it as an integral whole and then apportionate it out. They've worked out the mechanics of it and we could do the same thing here. And with this fixed assessment, one says you can't have industry and the next one wants industry...and you have to give this relief. If the Legislature in its wisdom decides to give relief because we want the natural gas industry, then I think this is proper. But I don't think we should do it by making this a fixed assessment. We should assess it on actual value and let's tax it differently, but don't assess it differently, because at the present rates as used in Section 41, in some instances they're only about 23½ to 33% of the value of that particular installment of that pipe. But we forget about these other things.

MR MORROW: Should there be any difference between the distribution and the transmission lines?

MR BECKETT: They say not.

MR HEPDITCH: No there should not be, Sir.

MR BECKETT: They should all be assessed at actual value.

MR MORROW: They all carry gas.

MR HEPDITCH: Yes, they all carry gas and they should be treated the same.

MR EVANS: But you can have identical houses in one municipality and another municipality assessed the same, but the taxes will be different.

MR HEPDITCH: I agree. But I think when you're dealing with an industry, there should be one general tax rate or something like that, rather than having many different rates. This is bad for an industry. Why because of geographical location should an industry pay 90 mills in one area, and across the county line or something like that, they pay 30 mills. I think this industry should be treated as a whole, assessed as a whole and taxed as a whole and the monies distributed as a whole.

MR BECKETT: On what basis of distribution?

MR HEPDITCH: Well I think it could be based upon per capita assessment or some other factor-I don't know, but this could be worked out.

MR MORROW: Mr Chairman, could we have Mrs Rowan read subsection 3 of Section 40 of the Assessment Act? Your association suggested that it should be deleted, and we wondered what perhaps you might substitute for it.

MRS ROWAN: "Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property."

MR MORROW: Your association suggests that this be deleted because the assessor has no knowledge of another municipality or its assessments.

MR HEPDITCH: I don't think it should be deleted; I think it's good legislation because it is only where you value first the whole property or company, as it were, the holdings of the whole company....

MR BECKETT: According to your theory, you couldn't delete that. (no) Well Mr Hepditch, we appreciate your coming and we thank you for your suggestions and remarks.

MR HEPDITCH: Thank you very much, Sir, for your courtesy.

LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-SIXTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
JULY 18th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer

APPEARANCE:

J.A. Ferguson
Don Middleton
Chas Huffman
Frank Brumell
Chas Munro
L. Laventure

PRESENTATION:

BRIEF - ONTARIO FEDERATION OF AGRICULTURE

ONTARIO FEDERATION OF AGRICULTUREHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Well, Mr Ferguson, would you like to introduce your delegation to the Committee.

MR FERGUSON: Well, Mr Chairman and Gentlemen, I'd like to first introduce our delegation; starting at the left, they are Frank Brumell from York County; Mr Charles Huffman, from up in the garden section in Essex County; Mr Charles Munro, from Oxford County; Mr Leonard Laventure from Renfrew and our Director of Propagation, Mr Don Middleton.

MR BECKETT: Thank you. Now you may proceed in any manner you wish.

MR FERGUSON: Well Mr Chairman, I understand you have read our Brief (yes) and we will not read it again but I would like to make a few general comments, and then maybe some questions, at which time each of these men present have certain things with which they are generally more familiar than I am, and I will direct the questions to them. We do appreciate this opportunity, and we appreciate the government acceding to the request to set up this Committee to go into all the aspects of the Act and Related Acts; it is something that perhaps should have been done sooner and it is certainly very timely to get it done at this particular time. I'd like to make it pretty clear at the outset, and I suppose you probably realize this in reading our Brief, we haven't attempted to suggest legislation or ways and means of implementing programs, but simply have suggested some broad principles which perhaps, if coupled with other programs might help to alleviate some of the situations. We are not saying that some of the suggestions here are complete cures for the alleviation of problems, but simply in laymen's terms, some observations that have been made and we think might help. Now there's one particular section in which we're suggesting certain things; and it's been drawn to our attention that perhaps with the current legislation, this wouldn't do the thing that we advocate. This, we think, was not

our job; we didnt anticipate trying to solve everything and give all the mechanics of how the legislation was going to be drawn up. The one thing we have tried to keep in our minds, and we have done this-I have now, Sir, gone to this or subsequent Committee...I've been on it now for a number of years, and always in terms of trying to think of relief which would help to maintain agriculture for agricultural producers; in other words, to try to alleviate problems which affect agriculturists that may be the contributory factor to them leaving agriculture and having to change their way of life. I think if we keep this in mind that it may cast a different light and a different interpretation on some of the statements that are made in the Brief proper. We think, too, that in connection with your operation it would be most helpful and we would anticipate that you intended to do this, was to hold hearings out in the local areas where you'd get other atmospheres and other presentations, rather than formal organizations who are trying to couple suggestions that they get and put them into a form for presentation to you. We think that this would broaden and help to give you a better understanding of the problem as it exists in the country. Aside from that, Mr Chairman, it's a warm day-I dont intend to make any long formal speech; we'd be happy to entertain whatever questions the Committee saw fit to or will see fit to raise during the afternoon. We have these other men here and I'll designate one of them if I see you've got me cornered.

MR BLCKETT: You'll run for cover.

MR FERGUSON: Yes, I'll run for cover. Thank you very much.

MR BECKETT: Would any Member of the Committee like to ask generally any question?

MR SINGER: You concern yourself, and I know that a lot of the farmers do, with the incidence of municipal taxation of farms. I think we heard a while ago in a representation that either originated in your group or was concurred in by your group, that there be no education assessment on anything other than say, 10 acres, which has to do with the house and buildings. Am I correct in that?

MR FERGUSON: Well we have put forward through

the years to the government, a number of recommendations; we have suggested that there should be provision for a minimum. We have had it suggested from time to time, as you say, that perhaps we should include the house and so many acres of land. Now you'll probably recall in this Brief, we've referred to the fact that for education, it should only be on the farmer's house. Now our reasoning behind this is very simply, to try to arrive at some program that would equalize the load locally, whether rural or rural-urban mixed. Because with the urban, they're assessed largely on their local holding, which is the house and the land they occupy. Whether it's a city lot or whatever it is; and in the past, if the application of the Assessment Act and the manual...if we're to assume that it's been applied in its proper perspective, we don't think it has brought about the amount of relief that should be realized in a proper program. And some of us have gone so far as to suggest that perhaps we should think of an entire revamping of the program of raising all monies to provide municipal services. Now I don't think we want to get away from the Brief too far, but some of the people that we've brought in from the areas have gone this far as to suggest that the system under which the current Assessment Act is working, originated many many years ago for a set of conditions vastly different, in fact no resemblance to current conditions that we are trying desperately to make it apply to today. We've updated it and we have now a reference point for cost back in 1940, which we say is, in itself, too far removed from conditions to serve properly in arriving at equity among individuals in areas, whether it be total rural or urban rural mixtures.

MR SINGLER: I notice, just glancing through your Brief again, that you suggest a long term and a short term solution. Your short term solution talks perhaps about some form of fixed assessment for farms.

MR FERGUSON: Or fixed taxation.

MR SINGLER: Or fixed taxation which is just about the same thing....it has been suggested to us that perhaps some system could be evolved for farms and farmers somewhat similar to that pres-

ently in existence for golf clubs; I don't know whether you're familiar with that. But where there is a golf course in a municipality, they can enter into an agreement with the municipality to fix their assessment for as long as that land is carried on as a golf course. And in subsequent years, the assessor goes along and makes his entry in the roll increasing the value in relation to the surrounding land, but doesn't collect taxes on this basis; he collects the taxes on a fixed basis. Then if the golf course is later sold for development purposes, residential, industrial and commercial- at the time of that sale, then the old owner who is selling to a new owner who is changing the use, then the old owner is compelled to pay up the back taxes. Would that be feasible at all to you?

MR BRUMELL: There is one objection to that as far as our organization goes, and that is in most cases, the family farm is the only source of social security and independence that a farmer may have; and I think you can see the build up of back taxes against the farm property and dwelling, that any money the man might have invested in his property-it might disappear which is his back log of social security that he has built up for himself when the taxes eventually would have to be paid.

MR SINGER: But only if he or his successors wanted to change the use of it-if they didn't want to carry on with farming.

MR BRUMELL: When a man dies, naturally there's be a successor, and...

MR SINGER: Yes but it is the change of use, not the change of owner-it's the use of the land.

MR BRUMELL: That wasn't just what I understood about the golf course.

MR SINGER: Oh no, as long as it's carried on as a golf course, this will have a fixed assessment. It is only when it is sold for residential or commercial subdivision, that sort of thing, then the back taxes are payable.

MR BRUMELL: But there is his whole investment and his old age security whereas in industry, benefits are provided, and

this continues during his working lifetime, then when he retires, he has something to retire on. But the farmer, this is his security.

MR SINGER: Well how do you think a fixed assessment could or should work in line with this question?

MR BRUMELL: I think there should be a straight assessment or even a fixed tax, at a rate low enough that a farmer could continue to farm his land and live off it. For example, I live quite close to the city, to Metro, just out of Markham Township, and in 1940, I inherited a farm from my father and the taxes at that time were \$128. Last year, they were more than \$800. Now my net income has not increased to any degree at all, and yet my taxes have increased more than six times. A next door neighbour works in an industry in the City of Toronto and his income has increased at least double to what it was in 1940. Now in comparing my condition to his, I have to contribute six times as much as I did in 1940 with a very slightly higher income and his is nearer to three.

MR SINGER: But your net worth has increased-in dollars your land is more valuable.

MR BRUMELL: In dollars, but not in my purchasing power. We're really seeking to find some system that is more....

MR SINGER: Well I personally would like very much to see some reasonable method of financing all the services in the remarks of the spokesman here-although he said he did not want to stray too far from the Brief, they were most interesting to me. I'm not satisfied at all with our present system of municipal assessment or taxation using real estate- property- as our real source of wealth, and that's not the fact....

MR BRUMELL: One fact we know and that is our police costs. In 1940, we required 1 police officer; today we require 14. Now that one officer provided complete service to the rural population; but today we require the 14 because we're on a highway and the majority of the cases our police are called out for are for highway accidents or other requirements for our highways.

MR SINGLER: You've got more people in Markham than

you had then.

MR BRUMELL: That is true, but at the same time our 1960 police reports showed, I believe, that 76% of the calls the police went out on were required on highways, not for the people who are residents in Markham. Now why shouldn't the Department of Highways assume some of the police costs? I think the police costs and the cost of education are somewhat in the same...well..anyway they don't need them for us but for ...

MR SINGLER: Well that's true. That's why I was interested in trying to develop your spokesman's theme a little further, although he did say it wasn't in the Brief and he didn't want to stray too far.

MR FERGUSON: All that I was suggesting this for was, if we got into the realms of personal opinions, then one might go all over the map, and I didn't think we'd want to do that; but I'm not dictating how you discuss it- I'll enlarge on any thing that is necessary...

MR SINGER: Well maybe we should enlarge- to my mind we've seen an awful lot of Briefs that enunciate a problem; but we haven't seen too many solutions to these problems. I can recognize and I agree with the substantial submission you make here that the farmers have a serious problem in this regard. But I'm not too satisfied that any of the sort of half solutions that have been put forward to date, are good for all the citizens.

MR BECKETT: In other words, if somebody gets relief, somebody else has got to make it up.

MR SINGER: Yes that is a point.

MR FERGUSON: We have... in fact I referred to this earlier, on page 6, para 3 where we suggest that the taxation of real property is for services to the land only, and it carries its share of road costs plus normal administration costs and other property services; and that all the other services, presently provided for through municipal financing, should be met by monies raised through existing or additional sources of revenue. Now I don't think that this dele-

gation of ours is in the business of telling governments how to raise money. Now that's a personal opinion...

MR SINGLER: Except this, if you tell governments that they shouldnt collect taxes from a certain set of people, then I think it is reasonable for the government to say: Where is the money going to come from? If you cut us off from one source, we must find another source, because noone today is in the mood to have services cut. No one wants education standards to be lessened, police standards to be lessened- therefore someone has to spend more money.

MR MIDDLETON: But the crux of our Brief is the inequity that has been placed upon the farmer, and I dont think in any part of the Brief, we say that we pay no taxes, but we are constantly pointing out inequities.

MR SINGER: There's another point on page 3 where you talk about financing the cost of education; and you suggest that the government should take a much larger share than it is presently taking. (reads) "This proposal may be objected to because of destruction of local autonomy, but from our study group, we were unable to find a single school board that felt at present it enjoyed any real autonomy." Would you carry that further and say that there wouldnt be any majority objection in doing away with many of these 4000 school boards that we have in the Province of Ontario? Everytime I've said this, I get the answer back that all these good people out in the Province that sit on these school boards, if you say: Let's do away with them, you're going to be met with violent objection about doing away with local autonomy.

MR LAVENTURE: I think there would be a certain amount of objection because many people feel that they should have some say. Now I'm speaking of my own area; and we have one school area, and I think in that particular area they would be dissatisfied; but in other areas they may not be so conscious of it; but the main objection that I, as a farmer, have to our present system of taxation, is that I am not making as much money as the chaps who are working in town, and they pay about one-quarter the taxes I do to support the municipal

government. And it's very difficult to keep your son on the farm, because you're working on a holiday and these people are packing up and going away on picnics; and you must do this to carry on your farm work; and this is taking many, many young people away from the farms and making them dissatisfied.

MR MIDDLETON: May I pass on one further comment and that is I think the people who would want the school board are probably the Members of Parliament and the government in general more than the local people; because they provide a very adequate buffer, and I think a desirable buffer between the policy of government and the elected politician, and I can see a need of this even if they are prompted by the motives they have, I would think the Members of Parliament would say: This school board is a good tool to administer this program. Now I say this confidently; I think we need this type of buffer. If the government alone was to be responsible for all education, you people would be snowed under with people at your doorstep, where as it is, you get a filtering on this individual approach through the school board. I think this is a desirable thing and one of the checks that democracy needs; and I don't see that it will alter the autonomy just because we change the source of employment.

MR SINGER: Except the old saying that he who pays the piper calls the tune; it is pretty applicable. If you take away from the local board their right to raise taxes, even though you keep them there, it's not reasonable to expect the persons who raise the taxes are going to give another group too much authority to spend it.

MR FERGUSON: Mr Chairman, I think that perhaps this as well as other situations have changed over the past few years; and I'm thinking back to 1950 when we first had a provincial meeting, and there was first some outcry about the inequities in the current system of accumulating monies for these various services. And we went out and we did a survey in a number of the counties across the province, and we got into quite a bit of this discussion of ...well about stepping on the local autonomy and intending to take it out of the local authority; and even at the same time they would swing to us as a comm-

ittee that the debenture indebtedness, for instance of the local area because they happened to be in an area where there had been a terrific amount of building going on-they were up to the limit of what the government would allow them as far as debentures were concerned. So at this point, the organization, after some consideration of the problem, suggested that perhaps if we were to do as little as possible to effect the local autonomy of people, and yet do or suggest something that might alleviate some of the....the capital costs involved in education should be absorbed by other than the local area, in other words, provincial and federal, if they want to split it on a equal or unequal basis, should look after this part of the expenditure and leave the maintenance and operation of these units to be derived from monies collected in the local area. This would leave the autonomy of this operation at local level; and this was not too popular at first in some areas of Ontario, because they had not experienced this terrific growth problem, and they just assumed that we were doing what you're suggesting, taking it out of the hands of the local people and turning it over to governments, and they would tell them what kind of schools to build and the type...the building characteristics- what would be called the minimum requirements and this kind of thing. They object to this. Well then as time went on, the feeling started to change and they said: Well even if we had the total of maintenance to carry, we're wondering under the present system if we could effectively do the job; so our thinking got around to the point of generalizing on government's taking more and more of education's costs as such; and utilizing the local money for the services in the local area...as far as I'm concerned, this is personal not organizational-I think our school boards in this province have ample to justify their appointment or election, as I would like to see it, if they would do a proper job of administering our educational program, they wouldn't get involved too much in some of these other aspects that they're doing at the present time; and if they would take a little more interest in the kind of teachers they're getting on their staffs and the result in pupil abilities that's com-

ing out of the school system; I think there's responsibility both places, but I think that too many boards are operating as a unit, without fully realizing that there are other jobs that desperately need to be done to improve the end result in our school system. I think financing is one thing; the other aspect of financing that I think justifies government participation of capital expenditures or some other designated group that might be included with this is this, that truly and apparently the trend is to centralized and maybe consolidated schools. Well if this be so, why should a local municipality be affixed a terrific debt in debentures over years and years, and it's going to be a centralized school; why shouldnt this be gradually stepped into by the government, who is working as a policy towards this kind of a school system? In other words, the local people...there's other things in here that hinge on this, this business of redistribution of industrial and commercial monies that are collected from industry for these services. Currently living in this world where transportation is no problem, people live 30 or 40 or even 50 miles from where there demanding the service, and yet the monies for this service, is probably made available in other areas, not in the area where the demand is currently existing. And how do you go about to bring some equity into the availability of this money if you dont take it on some way of provincial collection and redistribution on a per pupil or some related basis. This is why I said at the first, we havent suggested this...all the mechanics of the suggestion. We are simply saying that isnt there a principle that may have some merit to take a look at what this would do. This doesnt say you still dont have taxes in the local area; you need them to provide the other services that we have to have. Now you can take roads- who uses the most of the roads in the rural areas in the Province of Ontario. I know in my own area, the people of the City of St Thomas, Mr McNeil, probably use that road far more than the people that live within ten miles of that area. And they dont contribute to the local school system. This comes out of township monies or county as the case may be. We're not saying that you shouldnt collect monies; we realize that we're going to have services and they have to be paid

for and the people are the ones who are going to have to pay for them. But it's just to arrive at some program which will promote more equity or maybe equity isn't the word- a better equalization of the load, we'll say; instead of one class carrying the greater percentage of the load than the other, maybe we've worded some of our Brief....

MR SINGER: No, I agree with you completely on the principle, but the mechanics of it are substantially upon my mind, because if the community is going to insist that you're going to maintain all this, or the government continue to maintain this multitude of units- the 4000 school boards in your 1000 municipalities, you're not going to be able to provide equitably, services over the whole province. Something has got to give, either one or the other.

MR FERGUSON: We first tried by suggesting using the current machinery where we had the Assessment Act. We felt assessors on a full time basis rather than the local municipality, which may be small, have an assessor who worked for so many months of the year, and this didn't tend to promote him to doing an efficient job of assessing. We got involved in what they used to call, and I'm not an assessor, they tell me it's what they call rewriting the roll; and they just re-wrote the roll rather than concern themselves with going around and seeing about changes that might or might not have taken place that warranted a change in assessment. Well then when we got through this one, we thought that coupled with this, we could get a greater stability here by...all right here's a township here and here- if they'd join together and employ one assessor the full year round, he would then have assessing as his main livelihood, and he would be able to go out and do a job....

MR SINGER: And you'd be able to pay him a good enough salary...

MR FERGUSON: And you'd be able to pay him a sufficient salary to warrant this kind of job. Then we went one step further and said: We think these people should be under the jurisdiction of a county assessor, and that he should be responsible for these people and that they shouldn't necessarily be hired by the local coun-

cillors who have their own elections to protect, and who are very careful who they put in these positions. This is a job that is too important to be left to this kind of handling, and we have seen through the years the advantages of the county assessors coming in, in each of the areas that we have surveyed through the years from 1950, we've seen advantages coming into these areas where county assessors were first. Now then, we saw this wasn't going to be the complete thing; we thought it should go provincial, which we've suggested; and then we were going off for some further requests, when the Premier of this Province suggested that he was going to change his grant structure, and would we provide some time to show the effectiveness of the increased unconditional grants system. Now we did. We left this go along, and then we checked the different areas, and our findings were that where there were strictly and purely rural areas, the increased unconditional grant did help to alleviate the situation. But in the areas where you've got mixed groups residing, the cost kept coming up and just about keeping pace with the increased unconditional grants, so they didn't actually overtake the problem—they just went along with you....

MR SINGER: The dormitory subdivisions.

MR FERGUSON: ...I mean it bolstered it but it didn't actually solve it—this is the situation. And I think it's because of and in the light of, Mr Chairman, some of these happenings through the years, that we've perhaps been a little cautious in making cut and dried statements in our Brief. The other thing is you realize we didn't have financial resources to put people in the field to do the kind of an exhaustive study of this whole related program that the government could put, and this is why we suggested the government set up a group that would go into it. Because I've talked to the Municipal Affairs, and they say, yes—your ideas are fine and the Province is ready for it, yet we've got to do so many other things. We don't know the real answer. Now I think that we've got to come up with some of these answers, and it isn't to try to outsmart anybody, but rather to try to distribute the load on a better basis across this Province of Ontario, and, of course, being from farm groups, we are certainly first and fore-

most interested in seeing that this isnt one of the contributing factors to them having to leave farming because of the increased tax load that is being brought about.

MR SINGER: You mentioned county assessors...the legislation, as you undoubtedly know, provides that where any county with the unanimous consent of all the municipalities, there can be a county assessor for all purposes. But only one county in the whole of the province has taken advantage of this.

MR FLRGUSON: Hasnt this been amended now so that you dont have to have complete...arent you allowed a percentage?

MR BLCKETT: No.

MR FLERGUSON: I thought there was some...

MR BECKETT: No, it's just under discussion.

MR SINGER: Do you think it would be a good thing that the province should say: All counties must have county assessors for all purposes? A personal opinion, if you will.

MR FERGUSON: Well, personally, I think it would be one step-I think this has to be coupled with an overall directive, and probably some other features worked into it; because...this again is strictly personal-I dont want this to get out in the country that I'm against current legislation, but I think that our Act has got to the point, Mr Chairman, where we've amended about as many hundreds of times as we can, and we should start and redraft an Act in line with present day conditions.

MR BLCKETT: We're going to attempt that.

MR FERGUSON: Well yes, this is what we've got to do. Somebody says: Well get an amendment to it, and I've got to the point where I've said at meetings, I'm sick and tired of this amending business -it means further difficulties; I think we want to rewrite the thing with the present day thinking in mind and try to forget about when it was set up; it did its job when it was set up, but it cant cope with with the present day conditions and I dont think we can get equity, no matter how you amend it or change your manual or what have you, but I'm not sure that it's all the answer to our problem. I

think it's far deeper than this and has become more involved than this.

MR EVANS: Mr Chairman, Mr Ferguson mentioned in his comments that he thought that all members of school boards should be elected. Would you like to elaborate on that?

MR FERGUSON: Well there's two things; having served on a school board for about 15 years myself, and realizing that when it came an annual meeting, on some occasions we had to go out and solicit enough local people to make a quorum to even appoint us for the next term of office. If this would do anything to engender interest by having elected representatives, this in itself would be wonderful. Another thing is that, I think an elected person, if you can get at them, for instance, this is purely local...we have a high school board which is appointed, but I take a very dim view of some of the policies that these individuals implement on this board; and it isn't because they're not trying to do a good job, in my opinion, it's because they really don't know what's available. They've never gotten out of the county far enough to know what facilities are available, provincially or otherwise, and they're just going along on the basis of appointment to the board, and they're trying to use their best judgment and they're doing it, but they're not doing an effective job. Now if these people were paid properly and elected, they'd have to...

MR EVANS: They have nobody to answer to.

MR FERGUSON: Yes, they'd be answerable to someone. Now we've got other members here who are on school boards and will probably object to what I've said, but this might be good to raise a little argument.

MR EVANS: This has been brought up several times to our Committee and now I just wondered what your opinion was.

MR SINGLER: Do you think they should be paid?

MR HUFFMAN: Mr Chairman, if I might be permitted--after spending 18 years on a high school board and a few more on a public school board in which I was elected and the high school board to which I was appointed, I would certainly support Mr Ferguson's remarks in this. If I thought they had a much more efficient board where

they were elected, and the appointed board, it's true that their capabilities aren't what they should be always, and where it is a known fact that you can't get at them, they're much more extravagant and not nearly as efficient. And I'm certainly of the opinion that every school board member should be elected--this is my honest opinion after serving on one for 18 years; as an appointed member, I've tried to act in the same capacity as if I were elected, that is to be responsible to the people who appointed me.

MR MORROW: Yet there are many excellent appointed officials who would not stand for office if there was an election...if it was the other way too.

MR HUFFMAN: I appreciate that.

MR MORROW: It works both ways; they won't stand the criticism that goes along with elected office. We'd lose many excellent people.

MR BECKETT: In your opinion, should all boards be elected?

MR HUFFMAN: I would suggest so. This is my opinion, and their expenses paid. One of the reasons many won't stand for election is that there are no expenses passed to them; and I don't think in this day and age when we're all striving to merely exist, that a man should give up his time and not get his expenses paid.

MR MORROW: There's a great many excellent people who feel as if they have a stake in the community, and want to make some effort to contribute to community life, and they accept these positions, these appointed positions on high school boards, thinking that is their contribution, and I for one, I object to denying our school boards the opportunity of having these excellent people serve on them, and get down to the position where everybody has to be paid.

MR BECKETT: Well if you serve on a Fair Board, you don't get paid, or a Library Board--there are lots of boards where people give their time voluntarily for the good of the community.

MR EVANS: But they're not spending the money the school boards spend, and I often think that if the people on the school boards were elected, probably there would be a lot of schools without

all these frills that they're putting on the buildings today, and the cost of education wouldnt be as high as it is today.

MR HUFFMAN: That is very true.

MR FERGUSON: The product of your school system, Mr Chairman, to me is more important than the development of an industry. It's the people that are going to carry this country forward, and we should be very careful and particular about both the program and the administration and the carrying out of the program that's designated for that purpose. I'm not suggesting that all boards, Fair Boards and all the rest of them...you could have an advisory board to which these local people if they want to take an interest in this and want to reason things out- I know that locally there've been a number of instances where people have had excellent ideas that werent on the board at all. And they've had to resort to writing letters to the paper or something else to get this idea before them, whereas they might have done it through an advisory board program. But I think the people that actually deal in dollars and cents with the building of schools, the staffing of schools and this kind of thing, that it has now become more and more big business than it was even ten years ago, when the old little one-room red school house in the country was the rank and file. Here's another thing that makes me think we need to put more stress on this, it's the fact that a large percentage of the people who are going through Teacher's College to become trained as teachers, are the product of our rural school system; and all of us in this room have heard it said that perhaps the rural pupils werent getting, in some respects, the same equitable type of education as people in urban areas were getting. Now surely if this is the case, and if the percentages are right, we're drawing on these people to become teachers, we cannot afford to have anything better than the best coming out of our school system. And any steps that will help to bring this about, I think it needs desperately to be taken.

MR BLCKETT: But the fact that you pay school trustees wouldnt have a tendency to get the best people necessarily.

MR HUFFMAN: I dont mean pay them a salary or per

diem; I think the word "paid" is being misconstrued here. I didn't mean paid as per diem, but I mean the expenses. The school boards today, the high school board that I served on, at the latter end of it I received my expenses. But I contributed just as much before I received any expense money-it made no difference. But it seemed to me that I was more happy in the latter days when I actually received a little expense money-no per diem money-but I think it is pretty hard to ask a person to go out and not have some travelling expenses when a trustee is called to participate in travel-this is what I am talking about-I didn't mean a salary or per diem.

MR BECKETT: Getting back to the matter of assessing, Mr Ferguson, the Committee is very anxious to know how everybody feels about having a wider field of assessment, for instance, on a county basis or a regional basis or a district basis; and having one standard of assessment for a larger area than for a smaller unit.

MR FERGUSON: Well, I think this is our position as an organization, policywise-we feel that you have to work towards the larger unit, the regional and then provincial in scope in order to do any kind of a job in this regard. But this is one of the problems, and I could cite examples-the county assessor for example. I know different assessors that are using different systems; and in some areas the system they're using, they've been checked by the provincial spot checks, and they're not too far off the provincial program at the moment. But the way they're doing this, I call it grocery store arithmetic-they add, subtract and take so many percentages, that the people are mad and think they're wrong before they get at it. Whereas if they were going along with some pattern that had been set down for all assessors to do the same thing. For instance why should the assessor in our area-they'll take top tobacco land, Ron, and in the special category in your Assessment Manual, I think it's \$125 an acre. Now I know that in one area, they're using \$95 as the top and in an adjacent area it's \$75; and on the other side of this they're using \$125.

MR BECKETT: Which is actual value, both or all?

MR FERGUSON: No, I would say-I don't know what is

actual value...well I dont think either one of them is really actual value-I think I'd have to take a look at some of these; but even if they were all using 100, and the same system of rule, you would get it a lot more equitable....a more euqitable assessment. Take for instance a tobacco farm and I say, I'm assessing this as a unit. And the tobacco farmer says: Why should I have my equipment assessed because sometimes I sell a farm complete with equipment. So all right, we took some examples and we broke it down and we took the equipment on it and we added the equipment and it come out to about the same thing. But people hadnt realized this was what was happening and they didnt appreciate what was coming. I think this is one of the problems. I have a situation where my neighbour says: If you dont assess Ferguson the same as my assessment, I'm going to appeal; because he is growing flue cured tobacco. Now this is a ridiculous situation; but this is the attitude that people take under this present system, and the poor assessor, he doesnt know what to do because he's trying to do a job, but there's a good deal of this kind of thing because there is not sufficient directive-nothing clear cut; and I dont know how you can go about it. We've discussed this with county assessors, had them on our committee, and this is why I think we've got to take a whole new look at the formula that's used for obtaining monies to provide all the various services. Perhaps a new act can do it.

MR MORROW: As you say, it would take a Philadelphia lawyer to unravel it.

MR BECKETT: Now Section 37 of the Assessment Act does give farm lands some relief, but the word "school" is not included. Do you think the word "school" should go in there to give some relief?

MR FERGUSON: I hadnt thought in terms of this one, but as agriculturists, we're not asking to be relieved of our share of paying for the services that are required in the area; a lot of people think we are. Because we're agruculturists, they say: Oh you dont want to pay for this, you dont want to pay for that or the other thing.

MR MIDDLTON: In direct answer to your question, Mr Chairman, the present operation of Section 37 to which you refer, is

certainly so ineffective or uneffective that it makes it almost a joke. Now although it is a mandatory Section, "the council shall before the 1st day of March" if you take a casual look at areas where this should be in operation, you'll find it's practically nil-they don't even pass the by-law. Then I will take an extreme example of the man who did apply to the council and say: Now look, let's do this. He applied, and they removed his garbage, and he wanted garbage, sewers and water-garbage removal-he then had to go to the county court judge, hoping at this point to get the sewers and water done and somehow or other the municipality construed that they were only assessing for one of these, he ended up going to the Ontario Municipal Board before he finally got justice. Now the bylaw said, "the municipality shall"-it wasn't a matter of the amount he was arguing, it was just getting them to do it. Now I grant you that the principle of the Section is fine, but where you have urban-oriented municipalities, even this type of a bylaw is not sufficient to protect the interests of the agriculturist; it just isn't good enough.

MR EVANS: You think it should say "shall"?

MR MIDDLETON: Well it does say "shall", but even with this, they don't do it.

MR BECKETT: Under that Section, subsection 4, do you feel that a county judge -is there provision for a county judge under Section 37?

MR MIDDLETON: On a question of law.

MR BECKETT: But not the Municipal Board, on law.

MR MIDDLETON: On a question...it is further appealed the same as your assessment, general assessment appeal, because this went to the OMB, I know that.

MR BECKETT: Well we had one Brief where it was suggested that outside of, say 5 acres and the dwelling, the balance pay taxes on only 50% of the school costs. What do you think of that suggestion?

MR MIDDLETON: It would probably be a help, but is it equity. This is what we are after.

MR BECKETT: I'm not saying that; I'm just saying that was a suggestion.

MR HUFFMAN: Mr Chairman, in speaking of equity, if we looked at the Brief on page 5 at the bottom and the top of page 6, it's pretty clear there is little equity where agriculture land is assessed at 40%, and this applies pretty well across the province, and the urban at 25%. Now the problem today as it is laid down is not only urban; in most cases many people go out in what I call rural -I wouldnt classify it as urban- rural places and build; and the house and lot, whatever it may be, one acre or five acres is assessed at 25%, and to bring this right back to the cost that is arrived at for this expenditure, 52%-53% is a very close average for education. And your police costs are-well in the different areas they vary; in some places it is 14% and you can find this as high as 67% for the four different services. Now it wasnt the land that required these services-it was the people. And until we straighten out this phase, you're certainly not straightening out the first and the heaviest inequity. I think this is very plain to be seen that some form of assessment-compulsory assessment; you should say that we would be assessed on real values, and everybody concerned, not 1940 values; because I think we're living in an entirely different era than they did in 1940 or in 1950. Today we live in a world of refrigeration and transportation that will carry carry us nearly around the globe. And I come from a fruit and vegetable agriculture, and it is certainly affected by what might come from Cuba or California or Spain, and it's only hours and not days that this affects us, and we should consider the changes in agriculture-process-ing and competition-in what we're talking about as far as assessed value. We should be realistic. Assess and take a three year or a five year period from 1962 or 1963 back-this is as close as we can come to it, I agree. We are doing this with some commodity plans, and it is working out very well, to establish a value for a commodity entering Canada, or to deal with it in any way you wish to deal with it; you take a three year period or a five year period and you can come very close to the real value of that commodity. And I dont see why you

cant come very close to the real value of property. And in my book, I think this one part-this 25% assessment for urban and 40% for rural is inequitable. Mr Singer, you referred a few moments ago to taking the burden from the one and putting it on the other; now we find that if we assessed some of these people who come out into the rural areas 40%, they're not so happy to stay there and they'd just as leave go back into town and get the services of that town. They come out for two specific purposes, more or less; one for lower taxation and the other that they like the open life. I have no quarrel with them; I would like to have those people with us and we appreciate them out in the rural area. But I dont think I should be carrying their burden for them. I know that I could give you many illustrations in my own area, but I think you understand the problem; now how can we cure it?

MR EVANS: Then the exemptions on real property, if it were assessed at market value, would be on the particular area-the exemptions there might be in that municipality-that's the only way it could be alleviated from a higher tax. If you were tax some farms at market value, or assessed at market value, they would be paying a terrific tax, unless there were some exemptions.

MR BRUMELL: I feel that the intention here was market value for farm purposes.

MR HUFFMAN: Yes, that is what I had reference to-market value for farm purposes; not for real estate purposes for speculation, but real farm value because this land wants to stay for agriculture. And it is quite easy, classed as agriculture, to come up with what the land should be worth. Many parts of this province have farm land frozen, under the Planning Act, as agriculture land.

MR BECKETT: What do you mean frozen?

MR BRUMELL: Well it cannot be developed as subdivision land-that's what I mean- under the local by-law of the township. I'm thinking of Markham- a great deal of our area there is frozen as agricultural land and it cant be developed at the present time for subdivision. And we do have the odd speculator coming in...

MR MORROW: But it helps to keep them out, though.

MR BRUMELL:and paying a big price for one farm; now that's dwindling down very rapidly because you cannot develop for some years.

MR BECKETT: Have you an official plan in Markham Township (yes) And is the bylaw passed pursuant to the uses set out in the official plan? Does the official plan say those lands are to be used for farm purposes ?

MR BRUMELL: That's right, certain areas.

MR BECKETT: Following down that same line, what about summer cottages; what benefit do they derive from the services?

MR BRUMELL: Well in Markham we have very few summer cottages.

MR BECKETT: I'm not saying Markham, I know, but take North Gwillimbury for instance.

MR BRUMELL: They dont create a school problem.

MR BECKETT: I know but they pay.

MR BRUMELL: Yes, sure but they dont create a school problem.

MR LAVENTURE: Mr Chairman, I take the attitude there, that anybody that can afford a summer cottage, should afford double taxation.

MR MORROW: They're objecting very strongly.

MR GORDON: Oh I know there's a lot of people, take up near Brantford and Port Dover for instance within 26 miles of Brantford, all working men who work in the factories, that have built with their own hands, they have built summer cottages; and they're not wealthy men and they cant afford double taxes. They dont send anybody to school at Port Dover, yet they have to pay school tax; and they're paying school taxes in the City of Brantford besides.

MR MIDDLETON: If a summer resort area remains predominantly a summer resort area, the cost of school taxation do not rise to the point of being a burden upon the cottagers or anyone else. I have a cottage located in an area where I dont suppose there will ever be a school problem, and we pay \$14 education tax on our cottage with \$28 total. I believe it's a very bad assessment that's on it; it's

only \$700 and some think it's worth \$7000. Now these cottages become winterized and then you have a complex of winterized cottages creating education problems, and the man who does not winterize-it's strictly a summer cottage, and he has to help pay the bills, and he's put in practically the same position as the farmer in an area that becomes urbanized. He begins to subsidize the cost of something he didn't create. But as long as you keep a summer area, there normally isn't a high cost of education.

MR SINGER: Except where you get a local council who makes up their mind that they're going to fix these summer cottagers who can well afford it even if they're not there. And this happens.

MR MIDDLETON: This happens, I agree.

MR EVANS: There's lots of summer cottages in my area-Georgian Bay and Lake Simcoe area- and they all have to pay school taxes.

MR SINGER: It happens in various sections of the province where you have comparatively poor townships with a big summer colony and a very impressive looking school, which they wouldn't have unless they collected a substantial portion of their taxes on these summer cottages.

MR MORROW: In my area, there is a large summer colony of 2000, and they're paying about 60% of the total taxation in township

MR BRUMELL: Well Mr Chairman, may I say that's the reverse of the farm situation.

MR BECKETT: Mr Middleton, taking your case of the summer cottage, if your farm had the same deal, from the assessment standpoint as your summer cottage....

MR MIDDLETON: It's a very good deal, let me tell you. Our farm is worth a shade more just \$2000 more than that summer cottage, and I think maybe we're paying \$670 last year in taxes.

MR BECKETT: I don't know whether in your Brief you did give us a definition of what a farm is, and what a farmer is. We have looked for that definition from several sources. (all talking)

I think it was the assessor from Wentworth County that said he would send us in a definition. But isn't that the basis of the whole thing to have a farm defined for assessment purposes.

MR FERGUSON: I'd say that would help.

MR MCNEIL: Didn't the Assessing Association say they would define it?

MR BECKETT: Oh yes, the Assessing Association did say something like that. Do you want to carry on, Mr Ferguson? Or do you want the other gentlemen to speak?

MR FERGUSON: Well, if there's any other questions-points that you want enlarged on.

MR BECKETT: I think the Committee is well aware of the problem, but how to put that into the recommendations is another thing.

MR HUFFMAN: Mr Chairman, would it be permissible for me to ask if anybody has made a suggestion of taking a look at the way the mill rate assessment is set in the State of New York so that at no time will it exceed a certain mill rate on agricultural producing land; has anybody ever studied that?

MR BECKETT: No, but what we did find out about the State of New York is that 80% of the people in the State of New York including counties, are governed by charters. They have no Assessment Act like we have. And their own charter gives them the authority, absolute authority, no interference from Albany-that's strictly local autonomy in the whole State of New York.

MR MIDDLETON: They did introduce a system, did they not in the late 1920's...1925 or 1927-somewhere in there- they fixed the rate for education purposes at 12½ mills; and somewhere else-Alberta-I believe, where if this is not raised, the state has to step in and divide it; and any surplus money goes into the surplus.

MR BECKETT: I didn't find that out this last summer, or last spring when we were in Albany. It might be, but you must remember that under the school system in the United States, the Federal Government aids the schools considerably with construction costs, which would be along your suggestion. If we could get away from the

debenture cost of the construction of schools, which in Canada is a pretty hard thing to do on account of many things that you know...in having a federal contribution.

MR HUFFMAN: Well that brings us right back to these school boards. I wouldn't like to see the school board-local autonomy-sometimes they go out and I have seen this happen when you look around and see many schools; and our present government has a grant structure that they will not exceed, but the local autonomy that you're talking about, they'll go out and see many schools and they'll pick the best and most expensive, and being an appointed board, they can go out and build a school whereby the grant system is set at an amount per room, but exceed this by maybe 200% in order to have all the nice things they've seen. And this comes back to direct taxation in the municipality or the school area in which they live, and you can't touch them.

MR BECKETT: Why do they do it?

MR MORROW: The elected officials do the same thing in the public school system-you can't just say it is only the one, the secondary system that does it. The public school system does exactly the same thing, and they're elected officials.

MR HUFFMAN: I agree with you, but...(laughter)

MR BRUMELL: But the tax payer can get at the elected officials at election time.

MR MORROW: Yes, but they submit their costs...they decide to build two schools this year, and they simply submit their costs to the elected council, and the council has to raise the money.

MR GORDON: But the Council doesn't simply say to them: There you are fellows, there's the money-go to it.

MR MORROW: But they've got to raise it.

MR GORDON: I know but there's quite a row before it does.

MR MORROW: Well maybe they have a row, but they....

MR GORDON: And the people know all about it.

MR HUFFMAN: As a ratepayer, on the last Wednesday in the year, I have my privilege at getting back at this elected

person, which I have taken the opportunity when he is exorbitant in his...

MR MORROW: Yes, they dont have to go before the municipal council and say: Will you give us this money. They simply establish the budget and say: Here it is, this is the money required to administer the schools in this municipality this year, and you go ahead and raise it for us.

MR HUFFMAN: But the ratepayers do have the right to come back at the elected representatives, but all these appointed boards, they havent that opportunity.

MR BECKETT: But they have the right after the debt is created. (yes)

MR LAVENTURE: Mr Chairman, the point that I'm interested in is after these appointed people have created this charge on the community, why should I pay four times as much as the guy that has half an acre and a home on the corner of a farm; that's the point I'm interested in.

MR BECKETT: Then what do you suggest from a constructive standpoint to correct that situation?

MR LAVENTURE: Well it seems to me there should be a wider basis of taxation.

MR BECKETT: A county basis then?

MR LAVENTURE: Provincial, I would say. We have the two situations which creates a burden on farm people; the one is the people working in cities and towns, and I'm not against the working man in any way, shape or form. Relatives of mine are doing that and my neighbours are doing that. But this situation exists and I pay 4 to 6 times the amount of school taxes that these chaps because I'm a farmer. Now this is a great inequality-it's not fair at all and it goes on year after year and it is increasing. Then we have the other situation where a group of people are working in a factory, but for some reason or other they decide to live in the school area adjoining. True, there's a lot of fresh air and it's a lovely place to live; but the factories they work in doesnt pay taxes in that area. And there is about-probably 15 farmers- that have to contribute to additional

taxes for two additional school sections for two additional rooms for schools, not because we have any more farmers around, not that there is any more land, but because more people came. The area they work in does not contribute to municipal taxation and the farmers have to pay it. And I'm sure that is duplicated many hundreds of times across the province.

MR MIDDLLTON: We have said something in the Brief here, and I trust this Committee will give serious thought to it, and that is a base of taxation that will basically discourage urban development; that is whatever changes we've made or see fit to make in legislation, would so distribute education costs as to provide a deterrent to ribbon development because the cost is not only education, but also in all these other services. And although these people say they come there for fresh air, they also come for cheap taxes. And they can pay about \$120 for their house and lot, where in town it is \$300 or \$350, they're out there. Now if we made the taxes at \$350, they will stay put where they are. There won't be this rush out. I question that this is a luxury that our Canadian economy can stand. And those people who live there, I think, must face up to the fact that it is a luxury type of living and be prepared to pay for it. I think whatever we do should create this change, because it would complement the whole process of planning that we are trying to carry out by the Department of Municipal Affairs.

MR BECKETT: What do you think of that, Mr Taylor?

MR TAYLOR: Well I was reading in connection with that in the Brief, page 6, Section 4, Taxation and Planning. And my mind was whirling on this bigger section; I was just wondering if this could be amplified. It ties in the economic land use policies and controlled development, and I presume that taxation is tied in with official plans and suburban bylaws, and coupled with it is this problem of consents to divide, and application through the Planning Board for consent to divide off the corner of the farm and the house; and to divide ten acres and they have to have the consent of the Planning Board. I was just wondering if this paragraph could be amplified.

MR FERGUSON: Well, Mr Brumell has had more experience with Planning Boards than any of the rest of us, so I'll ask him to amplify.

MR BRUMELL: I'm afraid I havent all the experience you imply, however I would like to say that I dont think there's any provision in the Assessment Act at the present time to relieve a farmer or lower his assessment, because his land is frozen substantially, frozen for agricultural purposes, and I'm very happy to see something like that. When he finds himself in the position that his land is to be sold for development purposes, it sells in and around Markham for \$2000 an acre, where I'm located, I couldnt get more than \$500 or \$600, and certainly that wouldnt be the true value for farm purposes; it would be much lower than that because I am in a region that is frozen as an agricultural region and it may not be opened up for development for some years-probably 25 years. Do you follow me. I cant sell it like my neighbour can down the road, but I have to bear the same type of assessment that he has. And I am in the position that I cant afford to pay the taxes and keep on farming yet I cant sell.

MR TAYLOR: Wouldnt the market value be different for farming purposes in this situation- your farm for agriculture, and somebody else's farm may be zoned for industrial.

MR BRUMELL: Yes, that's true.

MR TAYLOR: And your assessment is for farm purposes, and the value of your farm if you were selling that farm for farming purposes-there would be a difference in market value.

MR BRUMELL: Oh, very different. I cant afford to farm because the taxes are too high and I cant sell because I have no buyers. What can a man do? If we had an Act that land that was zoned for agricultural purposes the taxation was related to the zoning.

MR BLACKETT: Make the Planning Act part of the Assessment Act, and relate the zoning bylaws.

MR MIDDLETON: Mr Chairman, in Appendix 3, which is a portion of the Land Use Report of the Conservation Council; on page 2, they propose a classification of lands here and provide some features here that I think are rather good, that will give prime agricul-

tural land as Class A, (reads, Appendix 3, page 2, (d) "By ensuringawaiting development." It would give lands in Class A and Class B a preferential type of taxation. And then the land could be changed to Class C at the owner's request. That is if he decides to make a move. He decides he wants to sell the first lot and he reclassifies his land-it's a calculated risk that he takes as a free living citizen in a democracy. And you'll notice there, then he pays the piper. I think we have to accept this increment tax, but I think we have to leave it to some degree to the discretion of the owner. If we force an increment tax on him, he's going to object to it, but if as a willing vendor, he moves himself into the position that he wants to subdivide, he gives up his choice of farm, then he takes also a calculated risk that any other business man would in entering into a deal. And the thing Mr Brumell is saying is the farmer is caught in a squeeze and the speculator it is that makes the money. This type of classification, classification of the soil and land use-here's our taxation pattern-we could encourage our planning, and at the same time protect agriculture.

MR BECKETT: But you couldn't have a planning bylaw; you'd have to amend your bylaw.

MR MIDDLETON: You would have to amend your bylaw and still have this within the scope. A man could have Class A land within Metropolitan Toronto, and provided he was willing to keep it in this category, he could stay there.

MR BECKETT: I don't know how you could have a bylaw so elastic as that-that a man could change his grouping within the bylaw itself; that is unique.

MR MIDDLETON: This is what we're saying that this could be within the framework of the overall plan.

MR SINGER: He catches him just immediately before a sale.

MR MIDDLETON: Provided he was ready to make a total sale; it would avoid the ribbon development which is the real crux of the problem.

MR SINGER: He'd only change his category provided

the sale were accompanied by a request for rezoning.

MR MIDDLETON: That's right.

MR BECKETT: Mr Middleton, if he didnt make the sale, then it would go back again, wouldnt it?

MR MIDDLETON: No, if he's there, he's there.

MR SINGER: Then if the farmer said he wanted to re-classify, then you'd jump on him at that point for the increased taxes (yes)

MR BRUMELL: Well as I understand it, if he's in Class A or Class B, there'd be no deferred taxes against him. Is that right?

MR MIDDLETON: That's right. Then he starts paying on a higher rate when he requests to be placed into Class C. Now we have a position now, for example now the Town of Burlington because of the official plan. They cannot develop-the municipality is not prepared to put services into those areas, and we have some of our fruit and vegetable men in these areas- small holdings. And they are facing...one man who has 200 acres his tax bill in the Town of Burlington last year was \$2600 on 200 acres of land. Now this land has potential value, but the municipality has said no, you cant subdivide; so as he grows older, he cannot sell it because of the tax burden, nor can he make enough money in agriculture to pay the tax bill. These are the ones that I think are the problem areas we have to get at.

MR SINGER: This has merit for another good reason too that you have just touched on, and that is preservation of the good areas, of prime land; the fruit areas in the Niagara Peninsula particularly.

MR MORROW: He is being assessed on actual value.

MR MIDDLETON: He is being assessed on actual value as the Assessment Act now interprets actual value.

MR SINGER: 1940 plus something or other.

MR MORROW: But it is to be taxed for agriculture purposes, for use I think it says.

MR MIDDLETON: He's being taxed on the basis of an

increased value because of urban holdings now.

MR MORROW: They're not sticking then to the purpose or intent.

MR MIDDLETON: But when you have an Act which states that the assessor has to evaluate property...now let's be honest about the Scarborough farmers' position; if it hadn't been for kindly judges and sympathetic Municipal Boards, this sort of thing, they would never have won their cases on the basis of what the Assessment Act says that you have to evaluate at actual value. And \$110 an acre is a long way from actual value; it's an artificial value and it's just because we have a benevolent judicial system that they've been able to win. So if we have an Assessment Act that has to be shored up by artificial means, I don't see how we can ever get a just answer to this problem.

MR BRUNELL: Well do you consider that the urban owners are paying actual value on their property in Scarborough Township?

MR MIDDLETON: No, they're paying at about 28% or something like that--no they're not either.

MR BECKETT: But that applies all over.

MR TAYLOR: If this system worked, would you have an official plan first?

MR MIDDLETON: I would envisage it coming the other way, that this desire to maintain the farmer's economic protection, would make the official plan something that almost became automatic.

MR TAYLOR: In other words, the ultimate plan would be dictated by whether or not a particular farmer chose to reclassify his land.

MR MIDDLETON: Yes the thing it would do, it would contain the ripples of value that you have now. You have the situation where a farmer sells here for \$100,000, and he goes out to Markham and spends half of that and buys a farm and then, the farmer who sells for \$50,000, he goes out to Orangeville and spends \$25,000 and the fellow at Orangeville goes out to the Bruce District and spends

\$10,000 ad infinitum. It would tend to keep these ripples closer to the urban centres of influence. If we had this other pressure that kept the farmer in a preferred position if he didnt do this thing.

MR SINGLER: Mr Chairman, I can see a very good point here, but what do you do with your farmer, if you have this system pertain, who says: I'm going to sit right here in the middle. I dont care, you can have all the development go all around me-I'm going to stay here and I'm going to farm. Are you going to allow him to do that and run these services all around him and he's prepared to sit for 10 or 15 years, and each year his property increases in value and eventually he says: Now I'm ready.

MR MORROW: I'll take my half million.

MR SINGER: Yes, I'll take my million dollars.

MR TAYLOR: I'm thinking of the ultimate use and how is this thing going to end up? Is it going to have any continuity in development towards your overall plan or are you just going to have industrial where somebody else has reclassified as industrial?

MR BECKETT: Yes, we'd have to keep to the plan, wouldnt we?

MR BRUMELL: Well we had this as a suggestion re classification, and that is the classifying Class A to Class B should be at the discretion of the Planning Board only, not at the discretion of the farmers; and Class B to Class C would be at the discretion of the farmers. It could also be at the discretion of the Planning Board to eliminate any situation that might exist as suggested.

MR TAYLOR: So that in the official plan some land would be listed as agriculture and that would have to stay the way it was-there wouldnt be any choice there.

MR BRUMELL: No, if the Planning Board reclassified from Class B to Class C, then his taxes are going to go up and he is going to have to sell; but it would be at the discretion of the Planning Board or it could be at the discretion of the owner, if he desires it and he's got an opportunity to sell.

MR TAYLOR: That would only operate where, say the

official plan showed the ultimate land development be for, say commercial, and it's now agricultural, then he could change, in other words, pass a bylaw which would implement the official plan and show his land zoned for commercial uses; but you'd have to comply with some overall program....

MR SINGER: You couldn't take a parcel here and a parcel there and....

MR MIDDLETON: I would agree with Mr Taylor in this, but I do think however that exercising the power to police to the degree we do now, the policing land uses, this poses a very small problem. There are a number of farmers that won't give up at \$1000 an acre—a very few—and the municipality has to, in terms of the overall good of the area, still reserve the right to expropriate anything we need in this province, and I don't see this as a particular problem. We exercise this everywhere else and it doesn't bother our soul at all.

MR HUFFMAN: The power to expropriate still exists; and I think we'd have to be just as fair one way as the other. And if we have to do this, I think the equities should be taken care of...

MR TAYLOR: We had the Ontario County people in, and they were still suggesting that the Planning Act be amended to eliminate the position of land, even where it was 10 acres or more; that there be no division of land without the consent of the Planning Board. The problem they pointed out was that they had this ribbon development again along the highways, and quite often left a lot of land landlocked behind. Now you bring a new point of view on this. Is this any answer to prevent these people coming from the urban areas to the rural areas and building a house on a piece of land, and making an uneconomic piece of land out of it.

MR BECKETT: Yes but you're preventing the owner from making a sale.

MR TAYLOR: That's right.

MR MIDDLETON: My personal opinion is, and this is my personal opinion, but any way we can prevent ribbon development or strips like ribbon development, I saw some blocks that were 1½ miles

long , and just what does a man do with this kind of lot? It's fantastic, just a narrow strip. And you're wasting all this land and the real thing that should happen is that never should this development have taken place.

MR SINGLER: How do you do your planning? Do you do it on the local basis, local councils... members of local councils equipped by training to do it, or have the local councils got enough money to hire competent help? I think in a small council ...I dont think they can do it themselves nor have they enough municipal money to spend to have it done properly.

MR MIDDLETON: My first answer is we have to accept regional planning as uncolourful as it may be in some areas. I think that many municipalities are prepared to move in this direction. And the other thing is, in the Brief it says here , as a government, let's not let the counties and municipalities hide behind the fact that they have no money to plan; simply say, if you dont plan, you dont get the money we're giving you.

MR SINGER: Or we will plan for you?

MR MIDDLETON: Or we will plan for you, one or the other.

MR SINGER: This is what you say on page 8 here, the first paragraph. (reads) "A study should....regional planning." Out of that last, I think, arises this question: Can you do regional planning without regional government?

MR BECKETT: And what do you mean by a region?

MR SINGER: Well a region can perhaps be determined, but if you're talking about a bigger unit whether it's called a region or a county, and you just do the planning aspect at one level and try to do the administrative aspect at the council level, you might have some problems.

MR MIDDLETON: If you're looking to me for an answer, I would say the answer, for this reason, is no. I feel that planning answers one of two things, either the people demand planning to the point that it is politically acceptable, and it's not politically acceptable now, I would agree with that. Or the province forces

planning on a practical area basis. And we have townships that just cant afford to plan. I think on my own municipality where I was born and raised, the people lost about \$49 million in assessment to the City of London. To the north of us, is a very small little township, and they dont even have a township hall-we loan ours-it is too big for us; and they have not done anything in the way of planning and they're only ten miles away from these pressures and now they're getting all of this bad type of development.

MR SINGER: And they dont know how to cope with it.

MR MIDDLETON: Yes they dont know how to cope with it; now had there been an amalgamation of the left over part of London Township and the Township of Sel , it would have made quite an operative unit, where you have one part of this township that had all the experience, and the other without any; but here we sit, one a township all falling down and an inefficient system and we tried to find an assessor and we tried to find a clerk and all this nonsense, and nothing is happening.

MR SINGER: They're just overwhelmed; I had a reeve of a small municipality come into see me recently. There were five members of his council, all farmers, and the city was spilling over into his municipality, and what will we do-none of us know anything about so we came down to Queen's Park to get some advice, and they just gave us a lot of books and we dont understand them-how do we go about it? And this is not an uncommon situation.

MR HUFFMAN: It's very common.

MR EVANS: It would be much better if two or three units would form together for governmental purposes- administrative purposes.

MR SINGER: Yes, because you cant plan over an area enough for administrative purposes.

MR BRUMELL: Mr Chairman, it was mentioned a few minutes ago the problem of the farm community, and in my township, it is one of our main problems. For a long time 100 acre farms have been sold off in 10 acre lots and new houses have been established

along there; and the farmers in between there beside those farms, because of their shape, have not room unless they divide $\frac{3}{4}$ of a mile deep in 10 acre lots, which certainly is impractical. They cannot sell off 10-acre lots for this reason, so they're being penalized with additionalized school costs of these two farms on the outside of the lot, because these two farms instead of having two houses on them, each on a 100 acre lot, they now have 10 homes and those abutting too; and they contribute to the school costs but don't pay their fair share in taxation. Under the present Municipal Act, the Planning Board has no jurisdiction over the costs.

MR HUFFMAN: Mr Chairman, I'd like to bring to the attention of the Committee that a house and ten acres- that might be a farm in my area.

MR EVANS: In my area too.

MR MORROW: The Pickering people had something to say about that, Mr Chairman.

MR BECKETT: Oh they found that in Pickering; they are having great difficulties with that very thing.

MR SINGLER: But their's is a different problem; they are part time farmers- some of them teach, some of them work in factories and they have come back and they object to not being treated as farmers. They say: We are farmers even though we do something else.

MR BRUMELL: In many cases there are farms or farm lots that grow wheat or raise beef on a part time basis.

MR FERGUSON: If the planning people are confined to selling 10-acre lots, and an individual buys a 10-acre lot, or let us say, he can buy it, then is there other legislation to say that he only has to keep up one acre surrounding the house, or he has to keep the 10 acres up- this kind of thing. They're not buying 10 acres with the idea of utilizing the 10 acres; they're buying 10 acres in order to get a site to put a house on in a certain area. And if this plan is carried on- I haven't had very much experience with planning- but in our own area, there's been quite a hassle in the past few months

where the local township suddenly decided that a certain area should be planned. So they go out and they say that the edge of this shall come to this road, on this side of which they shall comply with the plan; on the other side of this road, that can still do what they like.

MR BECKETT: No official plan?

MR FERGUSON: No, no official plan of the whole township, but in a limited area around the city, you see; and I maintain that if they're going to have a plan, the plan should be over the entire area, so that there is some control measure. It shouldn't be isolated into areas here that are controlled and others that are not. You just move your program out then and you create the same problem a little farther removed, because you're still within the realms of transportation. I think this is wrong and limited protection...

MR BECKETT: Patchwork.

MR FERGUSON: Yes, patchwork. It should be either larger in area and all encompassing, so that everyone has equal treatment.

MR BECKETT: Mr Ferguson, I notice at the top of 9 that you introduce a source of revenue which is very interesting.

MR FERGUSON: I would just like to say that this probably caused more discussion among the members of the committee, and this morning it wasn't a question of drawing lots to see who should speak on this; it was more or less dictated that one individual should do the elaborating on the lotteries, so I hesitate to take away any glory that might be gained in so doing. Mr Huffman will speak to it.

MR HUFFMAN: Mr Chairman, it is quite true it was left to me, but I didn't say that I was going to completely tell you everything that brought this up; I might say that some of this is personal. This paragraph at the top of page 9 is self explanatory. (reads) "Although gambling.....costs involved." We all know that illegal lotteries are continuous and I feel as if in the Province of Ontario I receive some from away off lands, and I know that the revenues from these are going to be sent to Cuba and some of these places where lotteries are run, and I think we should make them legal here-

if they're going to continue, we should have the revenue from them. I'm not in favour of them, but if they...

MR BECKETT: Well would you make it local option?
(laughter)

MR HUFFMAN: I think it is more or less through some of the statements I've made that would put me in this category.

MR MORROW: You're speaking of the Irish Sweepstake and that sort of thing?

MR HUFFMAN: Yes, yes that is what I have reference to. I question whether the majority of the people of the province realize the extent to which this has been carried on. I was quite amazed that I was sent these tickets- a neighbour said perhaps I was considered trustworthy; as a joke, I thought I'd ask my son-in-law if he wanted to buy a ticket, but he already had two. (laughter)

MR MORROW: The Federation isn't going on record as being in favour of lotteries- provincial lotteries- it says in this subjunctive clause here- you're putting in "if".

MR HUFFMAN: We want to draw it to your attention, if this was to continue, we might just as well have the revenue; we didn't say we were in favour of it- by no means. This might be personal again, I wouldn't be in favour of it; but if this is to continue, and we get no revenue, then there should be something done about it.

MR BECKETT: The criminal code, if it was changed, you wouldn't object?

MR HUFFMAN: Yes I would. (laughter) It's personal.

MR FERGUSON: I don't think we should relieve the originator, I think, of this idea. This has kind of snuck into our preliminary discussion, and I think he's here...with the pipe. (laughter)

MR MIDDLETON: I feel we have a Crime Commission investigation going on here in Ontario, which I suppose will cost you about \$2 or \$3 a piece, and when it's all over, there won't be one less gambling house or one less opportunity to gamble and I suggest we pay the bills out of the profits; I just don't view this personally on a non operating profit basis, and I don't see why the government should either.

MR BECKETT: Maybe that would be one way of paying the bills- a lottery.

MR MIDDLETON: Well this is the thinking of many; this is not saying that because we have sin, we might as well legalize sin. And there are certain moral reasons people dont want to gamble; and as a person who doesnt choose to gamble, it hurts me terribly to think I have to pay to get the other fellow investigated that does want to gamble.

MR SINGER: The thing that disturbs me about what you've said is that after the investigation is over, we're going to have the same sort of a situation- surely we hope not.

MR MIDDLETON: We're not that naive....

MR SINGER: No no we're not so naive as to say that the people arent going to make some bets and that people arent going to gamble on the races perhaps other than through the pari-mutuels....

MR EVANS: Or election bets.

MR SINGER: Or the elections, yes, or the stock market. But surely we can hope that if this investigation proves that there has been some corruption in some of our police forces, or some powerful political influence has been brought to bear, or some.....

MR BECKETT: I dont think we should discuss this while the Commission is still sitting...

MR SINGLER: No, no I agree with this, but I say if the investigation proves certain things along these lines, these things can be stopped, and I think they should be stopped.

MR MIDDLETON: Do you feel there will be less gambling houses, less places available for gambling after this - will there be any less opportunity for gambling?

MR SINGLER: I think there would be-yes-yes- not eliminated, but I think there would be.

MR BECKETT: Well now Mr Middleton, Mr Singer may be trying to say that no matter what the probe finds, there'll be no sin after this.

MR SINGLER: No, no,no,no, you're wrong on that.

MR BECKETT: Are there any other things, Mr Ferguson?

MR FERGUSON: Well I have a couple of things that I would like to draw to the attention of the Committee; there's one of them mentioned in the Brief, the other isn't; and it's a matter of procedure which I thought this Committee might like to take a look at. This may have happened before, but it's happened very recently in an appeal case over the Board of Evaluation hearing in Lambton County where it was referred to the Ontario Municipal Board, and it was my understanding that in cases of appeal, the person making the appeal had to first specify why they had appealed the award and state their case. On this occasion, my information is correct-I have no reason to doubt it, the Board insisted that the farmer who was satisfied with the award should state his case first and the Hydro was allowed to do this after they adjourned and finally came back and said they'd have to proceed on this basis; if the farmer wanted to appeal the procedure he could do it. Now it didn't seem to me this was a proper procedural program for the Board to be carrying out. This was one point I thought you should check on. The other one was we have made some reference on page 7, at the bottom of the page, the Assessment Appeals, and there has apparently been some questions raised about our request here. We're suggesting here that where the assessor has done something or the municipality which has necessitated appeals and where the farmer has justified his position, that the cost should be borne by the municipality. In other words, by this we hope might act as a deterrent on municipalities continuing to employ an assessor who continued to do this kind of thing and disregarding current legislation, ignoring it and bringing on these cases over and over again. Now it has been brought to our attention that when we suggested the cost be borne by the municipality, this wouldn't, under the present municipal law prove much of a burden, since all the expenses are not designated. There's only one or two items limited, such as the witnesses and this kind of thing. I think that if this is the case, then the legislation regarding costs in this kind of procedure should be looked into with the thought in mind of having all the costs involved or the legal

monies for lawyers-this kind of thing that a person might have to have- that these should be carried in here as well; and it's a question of getting a little more responsibility placed upon the municipality to engage and keep assessors working within the Act, and do the job without trying to place their own interpretation which bring about these costly appeals, because how many times does the farmer have to present his case and get it accepted before they're freed from this kind of thing.

MR BECKETT: There'd have to be some provision for having the legal costs taxed by somebody.

MR FERGUSON: Well yes and attached to the...well most of us,when we put this in the Brief, had in mind that this would be a reasonable deterrent. Now I can see if it's only a minimum cost, that are listed in Section 80 of the Act, it lists the costs that may be included, and they're not sizable, but it could become quite an item in the program.

MR MORROW: Mr Chairman, Mr Ferguson would be interested in the transcript of the Submission made by the Assessors when they appeared before the Committee on this subject, especially their argument why they should come back and put it on the next year and the next and the next. This is in their Submission.

MR FERGUSON: Well of course, what we had in our mind was the fact that...well let's name it...the Scarborough farmers had gone to work and had appealed and were successful, well then our friend, Mr Gray instead of seeing to this, he simply said: Well I dont believe in this anyhow, and he went right at it and did something else. We thought we had an amendment before the Legislature which really would protect the farmers,which the lawyers said we had; but this apparently he got around. So he goes and institutes another appeal, so we dont think this should go on indefinitely. We're not saying an assessor shouldnt have the right to come back; if they can justify their position, fine; let them justify it and they should justify it. So the person knows when he comes up for legal action what the argument is he's **fighting**; he knows the assessor's done such

and such and he's done it because of such and such. I think this is important.

MR BECKETT: Maybe he's only doing his duty; he takes his oath that he will assess at actual value.

MR FERGUSON: Well if he's doing his duty, I don't think there'd be too much criticism of him. I'll take my chances on that.

MR SINGER: Even though there is obviously a difference of opinion of what the court says the actual value is and what he says it is, then somebody must be wrong.

MR BECKETT: Yes, but in order to protect himself on the oath he made the year before-he made that oath that in his opinion that was the actual value; and it's only human nature that he go back to that and say: Well I did this before.

MR SINGER: Well you've got to convince one or the other that they're going to change, because there must be some finality to this.

MR MORROW: Yes, there should be some finality.

MR FERGUSON: Yes, and it shouldn't be just a question of who's going to wear out who first.

MR MORROW: Is this the suggestion that you have to bring about some finality to it?

MR FERGUSON: Well we think it will certainly minimize and put some deterrent on it; we're not asking that it be wiped out, but at least it will minimize it by placing the responsibility upon the municipality to not just hide behind an assessor and let the assessor go out and do this kind of thing; if they're responsible for paying some of these costs, they'll think twice before they have an assessor that goes on and repeats this kind of performance year after year.

MR MORROW: Do you think perhaps it might eliminate some of the vindictive aspect to the assessors?

MR SINGER: If the assessor assesses for actual value, surely this is only the opinion; then surely if the statutes provide-if there's a system of appeal, and one appeal is final, surely

the assessor must change his opinion when faced with that, to that extent. MR FERGUSON: Well I didnt sit in on the case; Mr Middleton did and we have Mr Brumell from that area, but I understand that it was fairly conclusive, was it not, the first time it was brought up; but Mr Gray just side-stepped the issue and went on and repeated the performance again the following year on a little different basis. In other words, simply ignored what we thought was the law of the land.

MR MIDDLETON: This might even be assisted into an opportunity for an examination for discovery before the trial; it might even assist in this regard- the fact that the appellant doesnt know really against what grounds he's appealing. He has no indication except a round figure that the assessor has come up with. He has no means of knowing how he arrived at this figure.

MR SINGER: And there's also the built-in legal fiction that assessment is for full value. And if any of these things ever get to the Supreme Court of Canada, they'd be thrown right out, because nobody assesses for full value.

MR BRUMELL: The unfortunate part in this case is that the farmers are paying their own costs for lawyers and all legal costs, whereas, take Mr Gray, the Municipality of Scarborough is paying the costs-he's not taking it from his own pocket, and so he can afford to keep on repeating the situation, and this is the sort of thing we're interested in stopping. If the municipality was required to pay all the costs, even the lost time, it would make them think twice about repeating this sort of thing.

MR SINGER: In any case, it is only where the appellant has been successful.

MR MORROW: Certainly, Mr Chairman, wont the assessors feel where it has been submitted that they were wrong in that particular case, then they'd have to go around and do all the others in the municipality in order to be using the same yardstick in measuring their assessments. In other words, if one appeal is successful, then his yardstick is wrong and he would have to go around and do all

the others over again.... well on the new basis.

MR BECKETT: So he's all wrong...

MR BRUMELL: I think there might be other ways of dealing with this stuff, Mr Chairman. We have suggested one.

MR TAYLOR: They've suggested that the onus be on the Assessment Commission on appeal; that is why he...

MR BRUMELL: We're not debating or...we're requesting whatever is the alternate method; it may be just as good or bad as ours.

MR MIDDLETON: I think Mr Singer's remark is really the crux of the matter, that our assessments are not what they're supposed to be. If they were actual value, then we've have something to fight about; but as long as they're something less than actual value, we just have no grounds.

MR SINGER: Well it's a fiction that I think is being deliberately maintained by a system of figures over the many years to give them a legal cushion; and they've been in control and this is the position that they want to maintain.

MR MIDDLETON: This might be a partial valuation; I would not blame the assessor personally...I would....

MR SINGER: It's not an individual thing; I think this has sort of been the association-the camaraderie of the assessors as a whole-they think this is a good idea because then noone can get at them, and officially the people cant get at them.

MR MIDDLETON: The other thing, of course which has encouraged this is, if you ask a farmer if he would sooner pay 60 mills on a thousand or 30 on two thousand, he'll choose the first; because high assessments are not part of our traditions because councils, to protect themselves, have encouraged low assessments.

MR SINGER: Oh there's several other factors that could have done this, the grant system...the whole set-up of the grant system, the equalization, and the readjustment....

MR BECKETT: That's the basis of a lot of it, the equalization.

MR FERGUSON: Well, Mr Chairman, I've covered the Brief, and unless there are any more questions from the Committee or unless any of our delegation have anything to add....

MR BECKETT: We appreciate it very much; are there any other items outside your Brief that anyone would like to add?

MR HUFFMAN: Mr Chairman, I wonder if it would be fair to ask if any other part of the problem that affected...similar to the county I come from- stuck down in the US, the County of Essex, and I would like to remark that some American people have found it advantageous to come over and build homes on account of the low taxation- just a home on a small property out in the rural section. We have many of them now and I wonder if it would be fair to ask if any other county or any other part of the province with a similar problem. I don't quarrel too much with our own people trying to get away with it, but I hate to subsidize the population of the United States.

MR BECKETT: Well that's the situation of Niagara-on-the-Lake for years; the people coming over from Buffalo and building large homes along the Niagara River.

MR HUFFMAN: We have many many of them driving to Detroit every day to work and so many of them, spilling over into Kent County, and the prime purpose is low taxation.

MR BECKETT: They wouldn't get a fixed assessment.

MR HUFFMAN: No, but I hate to carry the burden.

MR FERGUSON: Well thank you very much, Mr Chairman and Gentlemen.

MR BECKETT: Thank you very much; we appreciate your coming, and if you have any further items, please send them along.

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LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-SIXTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 JULY 19th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

J. A. TAYLOR

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer

APPEARANCE:

Norman C. Goodhead, Reeve

PRESENTATION:

BRIEF - TOWNSHIP OF NORTH YORK

NORMAN C. GOODHEAD, REEVE, TOWNSHIP OF NORTH YORK

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, Mr Goodhead is with us; will you please come up here. Mr Goodhead, you are the Reeve of the second largest of the Metropolitan Corporation. (introduces Committee) We have read your Brief, so you can start right now in any way you wish.

MR GOODHEAD: Well, Mr Chairman, we've been racking our brains, from a developing municipality's viewpoint, in order to come up with some solution to municipal statutes and related Acts, and how we can improve on them; and the many problems that face developing municipalities, trying to bring themselves into conformity with the statutes, and to suggest and recommend changes to the Legislature, but the only way I could conceive of to do it was on a similar view as the financial audit, which is required by each city and municipality in the province each year-a copy supplied to the Minister's office. And my view, in the proposal I have before you for your consideration, is the municipal statute audit...would provide to our legal departments a similar audit to the one our Finance Commissioner has; and it would bring the municipality into conformity with the various statutes throughout the year, and it would be audited and certified at the end of each year. And it would review the Municipal Act, the Planning Act and all other related Acts- they would be totally reviewed each year. My view is that this would eliminate, to a great extent, the problems that arose in York Township and Mimico and Eastview and...well some aspects of them at any rate- aspects pertaining to planning and to the Municipal Act. In this way, it could be determined by the year's end, certain actions taken by the council were not in the view of the audit-the firm who would do it-in conformity with the statutes, and recommendations would be made to the municipality, and subsequently, to the Department of Municipal Affairs, and changes could be effected. Thinking mainly of York in the case of Reeve Tonks and his situation, I think had there been a statutory audit taken by the council at the time, the thing could have been determined and the matter could have been corrected, and not

come back to haunt somebody several years later. And there are many aspects that you gentlemen will recognize, having been in the municipal field-many of you- that these are problems which arise and which should be corrected, but sometimes go on undetected for some period of time. In my view, it would provide recommendations to the Legislature continually each year, and would in toto review the municipal statutes and the Planning Act each year, by way of the fact that you would have recommendations specifically designed to correct the problems emanating in the municipalities, and you would then be advised as to what legislation might properly be passed in your wisdom and consideration to correct these situations as they happen-not try to do them in bits and pieces, as you do now by private Acts of the Legislature or sending in recommendations to the Legislature as to what we think should be changes of legislation. These would be forthcoming through auditing people who have knowledge of the situation in their local areas and would give the government, I would suggest, good guidance in this manner. I think you gentlemen are all familiar with the fact that municipal law is something that we haven't enough municipal experts...we're always searching around to try to find people who've had experience with the particular problems; and perhaps Mr Singer will know and Mr Beckett will know through Scarborough that we are pioneering continually in this field, and finding ourselves in a position that have no precedents in other municipalities. And this is a problem. I think this would stimulate interest in municipal law; it would provide for consulting people-municipal legal experts, and the question would be raised, of course, many of the municipalities in the province have consultants or legal firms that do their legal work for them-well that's fine- they would have to certify at the end of the year that the municipality that they represented had properly carried out their responsibility as viewed by the legal people in complete conformity with the Act; that the council took some action other than what was recommended from a legal point of view-then this would have to be recorded and be part of the audit report and be knowledgeable to the Minister of the action that had been taken by the council notwithstanding the circumstances. And I think this is good and a very healthy sit-

uation. I recognize, Mr Chairman, that this is something that may be very far in the future- I dont know. To my view, I think it should be done relatively quickly-it's a safeguard to the municipality, and to the province, and to the taxpayers, that their business is being done properly and legally. And I have come to realize-I wasn't always of that view-that there was a legal way in which the matter had to be done, and you had to bring yourself into conformity with the statutes; they're not there for generalization-they are there as a proper manner to conduct municipal business; and I recognize that everything must be in conformity and I think that everybody should recognize that too. So my view is to try to assist us in following some pattern which would provide that at the end of the year, Mr Chairman, we knew that what we had accomplished in the year, had been accomplished properly; and seeing what we do financially- if we do something which deviates from what we're allowed to do, the auditor quite properly brings it to our attention, and it's corrected, and the Minister is knowledgeable of it, and whether or not we corrected it and so on. And I think it could be done insofar as the Municipal Act, the Planning Act and other related Acts are and we could have an audit of our legal activities, with a view to seeing that the decisions that are ultimately made by council, are in conformity with the statutes. My view is it would review the Act continuously, and this is a good thing, and provide a good guide to the government as to what type of legislation changes should be made to meet existing conditions which develop throughout the entire province. That's my view, and I'd be glad to answer any questions anybody would like to ask.

MR EVANS: You suggest that the Department make this audit?

MR GOODHEAD: No, it would be on the same basis as your financial audit, but a copy of the audit would have to be available to the Minister as they are in the financial audits at the present time. It would be mandatory that each municipality would have this done.

MR BECKETT: And you wouldn't do it every six months?

MR GOODHEAD: No, they would do it progressively throughout the year, Mr Chairman, just as you do in your financial audit-they have people in periodically reviewing your operations and

your situation along with your Finance Commissioner and there's liaison between the two of them-in the Town of North York at least, and possibly throughout the year the financial people are continually auditing our situation. I would think it would have to be done similarly in so far as you bring yourself into conformity with the statutes. It would be a progressive thing.

MR BECKETT: Are they continually reporting then?

MR GOODHEAD: Yes, they are.

MR SINGER: I can see some merit in the principle behind these suggestions; but I'm a little doubtful about the practical application; in a municipality like North York where there is a regular legal set up, this sort of thing might be feasible. But there are 1000 municipalities and how we could dispose of those who perhaps don't pay \$50 a year in legal fees- some of them and some of them don't pay anything- how do you propose to do this?

MR GOODHEAD: Well Mr Singer, I think that's the problem; I think they should have legal advice on all the actions they take because I've had occasions to deal with these small municipalities and they don't know whether they're coming or going on the municipal statutes, and I think they should; they should be knowledgeable; they should have legal advice and they should do everything in conformity with the statutes; and if they aren't, I don't think it's in the best interests of the taxpayers or the province.

MR SINGER: Then there's the question of personnel. As you mentioned, there aren't too many people, including those in the legal profession, including those in the various administrative aspects, who are competent to do it.

MR GOODHEAD: There are a great number, Mr Singer, though who are knowledgeable and who have it, but who aren't able to practice because the opportunity isn't there.

MR SINGER: Who are knowledgeable perhaps because they have made a long study of it but presently it isn't worth their while because they are unable to spend much time at it.

MR GOODHEAD: You make my point. I think there should

be these type of people, and the motivation behind it, that there would be people who would then do that, and further to that, the universities would intensify considerations of municipal law. And I think this would be a good thing; in other words, a specialization is necessary.

MR SINGER: There's a question of cost, too, when you get down to these various small municipalities-it would place a very substantial burden on very small budgets.

MR GOODHEAD: Yes, but the savings feature in conducting your business in conformity with the statutes, I think, might properly offset it. For instance, in North York, we may be talking about a fee of \$17,000, but this would be very well spent, and you just pro-rate it down to the smaller municipalities. I think the amount actually in respect to audits, I think is very small actually compared to the advantages.

MR SINGER: There is the question of clarity of the statutes- what we both well know- two people can pick up a statute and get opposite answers.

MR GOODHEAD: I think we appreciate that too, Mr Chairman, but the basic problem is that if you have the same thing financially in trying to interpret the statutes and the limitations and so on. We have right now a problem that pertains to financing, and when somebody says we do it wrong, and our Finance Commissioner says we do it right, and the auditor says we're doing it wrong, so there's two viewpoints. But I think then at least you'd have two viewpoints and at least you'd be protected to the extent that you had a second, and as you well know, we always bring in consultants when we get ourselves into the position of whether or not our solicitor isn't quite satisfied as to the interpretation, we always get somebody else and get the two viewpoints.

MR SINGER: And there's one more point, and this is the position of the legal advisor of the municipality. A lawyer advising council at frequent intervals on the things they want to do- if they are illegal or improper or contrary to the statutes, he would not be too popular with his employers.

MR GOODHEAD: I don't disagree with that, but at least this would put him in the preferred position. I would suggest that a second person would come in and say: Now, your solicitor said you should do this and you did this; in our view you should have done what your solicitor advised. And it puts him in a preferred position and I think it protects him to the extent that he should be protected. And I wouldn't want it to be construed that I'm talking about North York- I think you gentlemen recognize that we have one of the finest municipal legal departments in the Province of Ontario under Mr Rogers; and we have four solicitors, Mr Chairman; so when I'm advocating this, I'm not necessarily advocating it for the Township of North York. I think we find ourselves pretty well protected, but I have to take the provincial viewpoint. No, I think, Mr Singer, this would put the solicitor in a position that this is what I say you should do; now if the council wants to change it, they also must recognize that the auditor is also going to look at it, and probably come in with the same interpretation as the solicitor, so it would be very foolish, I suggest, to deviate from your proper legal position. And I think these are things that should be corrected and the council shouldn't be wandering off in to some other atmosphere other than a legal one.

MR SINGER: Well we've had a number of people talking about assessment to us- the assessment system; and one of the points that's been made with fair regularity recently, is that the assessor should have some security of tenure, and they shouldn't be allowed to be dismissed by council unfairly; and the point of that is that if the assessor does something that the council doesn't like, occasionally he finds himself without a job. And this is bothering several of the people who come to this Committee.

MR EVANS: And Clerks and Treasurers.

MR MORROW: They're asking for a reasonable length of time.

MR BECKETT: That would apply to all officials.

MR SINGER: Yes, but you put the solicitor, who is the employee of the corporation into this position, and you might be putting a lot of solicitors into a very difficult position.

MR BECKETT: I dont think, Mr Singer,...as long as the solicitor puts his opinion in writing, I think most of them are prepared to stand behind it. If they fall by it, why that is unfortunate, but as long as they state their position in writing to a council, if they dont want to follow it, why that's their business.

MR GOODHEAD: I think we follow our Finance Commissioner to a great extent. If he's knowledgeable of a situation, why we dont deviate from that. We also know there's a financial auditor who's checking him; and at the end of the year, it all reflects itself in that audit report, and if you've been doing things that are in conformity, that's fine; but if they arent in conformity, you certainly know about it, because they show right up in there, and I think this would reflect itself similarly.

MR MORROW: Would you think, Mr Chairman, in our 970 municipalities there are any without a municipal solicitor?

MR BECKETT: I would think there would be quite a few without one.

MR EVANS: I think there would be. Now just yesterday, one of my municipalities, they appealed their equalization assessment, and the amount of money was \$375; and it goes before the Municipal Board, it's going to cost \$500 for them this year. Now they must not have been getting too good legal advice.

MR SINGER: Or they're not taking it.

MR BECKETT: No, no I cant agree with that now; there might be a principle involved...it wouldnt necessarily be entirely legal. Mr Goodhead, if there was a larger unit of administration in the province, that maybe would assist in formulating your policy.

MR GOODHEAD: You lose me somewhere-I dont know what you mean.

MR BECKETT: Well a larger unit of administration... for instance, we've had lots of Briefs about regional planning. Now if you have regional planning, perhaps you might have to have regional government.

MR GOODHEAD: Well I think, Mr Chairman, this is true-I think we're looking quite closely on some other form of municipal

administration that might reflect itself in using the word metropolitanization- of course that's not too palatable throughout the province but I think it's been very good and the Provincial Legislature, from my view, made the most progressive step forward in the last 50 years; and they should be commended in metropolitanization. But we must talk about some other sphere of government activities on the municipal level to carry out the same operation in different circumstances in the areas, and it may well be regional. But my view is not that; my view is that today as it exists that the municipalities would be protected. I think you must recognize that municipal government is in the spotlight of government in the Province of Ontario. They're looking in at everything we do, the way we do it; and it's important and this is a good thing and a healthy thing; and in order to keep ourselves in the position and properly keep our heads up and say we're doing business properly, I want an audit of some description. It seems to me that yes we have conducted our business in this way; but even if it wasn't generally necessary, I intend to make a recommendation to our council that we give consideration to having an audit of this nature for our own purposes, which would indicate that either we are doing it properly or we aren't doing it properly, and what suggested changes should be made and so on; so that if we can't see the woods for the trees, somebody else can. But my view is not larger units. I think every municipal government in Ontario should be protected, and this is one way of protecting them, and know that they are not doing it. And further to that, to assist them in not deviating and going astray in some of these things, knowledgeable of the fact that at the end of the year they're going to have a report saying that you did or you didn't, and I think this is good- good for the council. I would say this, Mr Chairman, it would be good for the new members coming on the council if you had auditing reports of a few years back that they could look at and be knowledgeable of what changes have been made, and this would bring them up to date on what steps have been taken. I agree with you that larger areas would be good, but also agree that it would be good for every municipality in the province. I don't think

the cost is prohibitive; I think it is a cost that would be well spent and be a benefit to the tax payer as well as to the province. It may be a far sighted plan, Mr Chairman. I've been trying to assess the situation in toto and come up with some constructive suggestions to you and that is the best thing I have at the moment.

MR BECKETT: Thank you. Any other questions from you gentlemen to Mr Goodhead?

MR SINGER: I dont want to put him on the spot, but we've got a Brief from one of your members of council; did you have any occasion to read it?

MR GOODHEAD: Yes, I have. I dont particularly agree with it, but the progressive steps that the government has taken have been good; the interpretation, of course, is one thing which causes everybody great concern; but I think you must have some format to operate from, and you have to be guided by your own conscience to a degree as to what exactly you're going to do-I dont think you can spell it out in the suggested way that the member of council suggests can be accomplished, and I think that the Legislature, as I have indicated before, has taken very progressive steps along this line. It may well be it can be improved as we go along, and I think it was motivated by the problem that existed. And I'm suggesting here that some correction should be made. I dont agree with him, but he will be here to argue his own suggestions. Thank you very much, Mr Chairman.

MR BECKETT: Well, any other suggestions at any time, Norman, just get in touch with us. Thank you very much for coming.

MR GOODHEAD: Thank you. And thank you, Ladies and Gentlemen.

John Brown

LEGISLATIVE ASSEMBLY OF ONTARIO
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AND RELATED ACTS

Committee Room No. 3
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THURSDAY,
JULY 19th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer

APPEARANCE:

J. Drew Hudson
M.H. McPhail

PRESENTATION:

BRIEF - ONTARIO RETAIL FEED DEALERS ASSOCIATION

ONTARIO RETAIL FEED DEALERS ASSOCIATIONHOLLIS E BECKETT, CHAIRMAN

MR BECKETT: Now Mr Hudson, you may proceed with your Brief or in any way you wish.

MR HUDSON: Thank you. What I was hoping, Mr Beckett, is that the Members of the Committee would have read the Brief....

MR BECKETT: We have read your Brief.

MR HUDSON:and that I might pick out a few of the points that would appear to need a little bit of explanation, and then possibly, the Members of the Committee might like to ask some questions. Now Gentlemen, if you look at the top of page 2, we define a Farm Service Mill (reads) "(a) engages in the retailing of.....blending operations." This is a very heterogeneous type of operation.

MR MORROW: Would you say that it manufactures?

MR HUDSON: We say that it doesnt manufacture-this is one of the major bones of contention with the appeals that have been taken to court on assessments; actually the major court case was Spruceleigh Farms, and that particular company would not fall within this definition because it performs a much greater percentage of wholesaling and also of processing.

MR MCPHAIL: I think it was possibly be excluded on the basis of our production capacity that we mentioned in our specifications here...our output. Now we havent checked that.

MR HUDSON: It is processing...it is mixed up and processed-this was thoroughly gone into in the Spruceleigh Farms case. In the judgment of that case, there was a definition of a manufacturer. He observed that the definition wasnt set out in the Assessment Act, and so he referred to the standard dictionaries and he said: Manufacturing is the act of making articles for use; it is the operation of making goods or wares of any kind-the production of articles for use from raw materials or prepared material by giving to these materials new forms, qualities, properties or combinations, whether by hand or

by machinery. Now within the strict words of that definition, I would think any processing industry is a manufacturer.

MR BECKETT: Then a cheese factory would be a...

MR HUDSON: A manufacturer- sure- I think a cheese factory or a cheese processor...I dont think in my own mind of a cheese processor as being a manufacturer, but he is certainly much closer to it than members of our association. A cheese processor does take the raw material and he makes it into a completely different form; he changes it from a liquid to a solid, and he ships it over a great area; whereas the members of our association take various grains and various additives that they purchase from Canada Packers and other manufacturers of that nature, and they blend-they mix these together and they sell their processed result over a very limited area. They dont ship it all across the province or across the country. They ship it within possibly a county or in cases of large counties, they ship it within a small portion-that's why there's so many members of the association.

MR BECKETT: But they do change the character.

MR HUDSON: They do change the character. Mr

McPhail was commenting to me yesterday that it took 4 lbs of feed to produce one lb of chicken feed fifteen years ago; whereas now the proper blending of components, it takes 2 lbs of feed to produce the same lb of chicken feed. They do change the character, yes; but it's not comparable to changing the character of a sheet of steel into a finished car. At any rate, although this Spruceleigh Farms would not very probably fall within the definition of a Farm Service Feed Mill, as we have defined it, the court nevertheless did find that it was a manufacturer because it did change the character, therefore it is a manufacturer. I have been trying to point out the differences between that and this type of operation-they dont ship over a wide area. I would compare this operation more to a quarry. Also the predominant feature of a service feed mill is that it is a retailer-it's a retailer of a bulk commodity for the farmer. That's why we put in here "disposes at retail of not less than 75% of its total output." Now actually, I believe

that that could be increased considerably, and affect few, if any, of our members. Now since the predominant characteristic-we go to page 3, Classifications-since the predominant characteristic of the farm service feed mill is retailing, I think you could make out a very strong argument that under the terms of the present Assessment Act, the members of the association should be classified as retail merchants. But then you get into squabbles, well they do do processing, and if you are going to say that processing is manufacturing, then as the court said in this particular case that I've referred to, they are manufacturers, and there's an enormous difference in assessment-it goes from 25% to 60%, so....

MR BECKETT: Mr Hudson, there is a court matter I have to look after at 12 o'clock; may I be excused? Mr Morrow will carry on and we will certainly give this our consideration.

MR HUDSON: Thank you very much, Mr Beckett.

MR MORROW, ACTING CHAIRMAN

MR EVANS: These feed mills, do they sell anything else besides what they process?

MR MCPHAIL: Yes, they sell everything. In fact a large part of their tonnage and dollar volume is goods that come in and is sold in exactly the same form such as commercial fertilizers, salt, and shelf goods and a great variety of farm supplies.

MR GORDON: It's retail.

MR MCPHAIL: That's right; it's strictly retail.

MR HUDSON: The only reason, or maybe the largest reason would be more accurate, that these farm service feed mills do any processing at all is because the commodities that they are processing are very bulky, and to get some central processing plant in Toronto and in your bigger communities, Ottawa, Windsor etc, if they did the processing and then shipped the processed product to the farm service feed mill, then it would be so much more expensive to the farmer because of transportation costs. But basically these people are retailers, and they process this bulk product through the exigencies of the economics of transportation. They're forced into it. And if they

dont do it, then their competitor in the next town will.

MR MCNEIL: A lot of farmers grow their own feed and bring it in to have the additives blended.

MR HUDSON: That's right.

MR MCPHAIL: On a custom basis.

MR HUDSON: The alternative would be to grow their feed and ship it to Toronto to be processed and then shipped back-well this is nonsense.

MR EVANS: How many of these farm service feed mills are there in Ontario or belonging to the association?

MR MCPHAIL: We have a membership of 475, but within the province, there is listed approximately 900 retail feed and farm supply establishments; but not all of that number would have milling facilities, such as we are interested in the form of this Brief. I would think it would be reasonable to assume that there are between 450 - 500 mills in the province that would be affected within the scope of this Brief.

MR HUDSON: I think I would like to jump to page 7, the Conclusion. Now admitting that there is and always has been confusion in categorizing....fitting various types of businesses into categories provided in the Assessment Act, the problem with this particular class of business is about as great as it can be. Its fundamental function is to retail, and it services the farmer; it has replaced the old flour mill of 50 or 60 years ago as we mentioned in our Brief. But there is this confusion arising out of what the classification should be under the Assessment Act. Various members of the association are assessed at anywhere from 12¹/₂%, and I dont know why it's 12%, because I cant find any provision for that, up to 75¹/₂%. We did bring along a table with these figures which I would like to give to each of you. (passes out table) This table is the result of a survey we conducted back in 1957 when this matter first came to the attention of our association. And this was just a group of mills selected to make this test- it wasnt the entire association by any means. We sent out 35 and 32 responded; and since that time, there will be a great change

in the number that falls within the various percentage brackets, but I would say the variations still exist.

MR MORROW: You mean a far greater sampling in order to encourage the reliability?

MR HUDSON: Well although the sampling wasnt entirely random, it was picked to represent a cross section of our association; and I think it is perhaps more accurate than a straight random sample. We have found that it has borne up in other enquiries within our organization.

MR MORROW: I dont wish to pull out of this page 7 part, but is there any way of making any comparable analysis of this and on page 3 there, where you have set out the classifications where local assessors have attempted to place farm service feed mills in all of the categories, wholesale merchant - 75%; manufacturer - 60%; retail merchant - 25% and so on. Now would you know out of this 450 - 500 how many would be classified as say, wholesale merchant and how many...

MR HUDSON: How many of each one of these things? We havent that information at the present time, but what we are finding as the assessments are made each year, there is an increasing tendency on the part of local assessors, obviously for need of revenue in their local municipalities, to increase or attach a higher assessment rate on the operation. And I would say the opportunity is provided by the fact there is no specific classification for our type of business. The flour mills were specifically classified, and a rate appropriately applied.

MR MORROW: You never tried to arrive at a mean though?

MR HUDSON: That's right; but the normal pays 35%.

MR MCPHAIL: Yes, and as a matter of fact we have a number of members of our association who are not too enthusiastic about us making this presentation because they are still getting on in their municipalities on the Miscellaneous and enjoying....

MR MORROW: They're under Miscellaneous? 25%?

MR MCPHAIL: Sure. But at the same time, we felt we couldnt ignore the interests of those who were suffering from undue

taxation just as some are able to escape it so far, and the association decided to take that action.

MR MORROW: Even though you've only found one so far that's over 60%? (yes)

MR EVANS: Where about's would that be?

MR MCPHAIL: This one is in eastern Ontario, but...

MR HUDSON: We can name names, cant we?

MR MCPHAIL: Well...this information was obtained under the assumption that the identity of those reporting would not be disclosed without their permission, and I dont feel that...it isnt that we have any reason for not, and I'm sure the Committee will understand. If you feel it is vital, I can get that for you. There are several within the last year, I know, that have been re-assessed and have been raised materially- sometimes 35%.

MR HUDSON: The problem is that they have the opportunity in one area to tax it 25%, and in another area to tax it 60%; and this seems ridiculous.

MR MCPHAIL: This one case that I mentioned in eastern Ontario is an operator of three mills comparable in size, nature of operation and so forth. One of them in a certain municipality is rated at 60%, the others are at 25%.

MR EVANS: Has he ever appealed those?

MR MCPHAIL: Yes, and the appeal in his case was thrown out because the county judge ruled that he didnt have jurisdiction to rule on it; and there was actually no decision-the judge just didnt have the authority. The one quoted by Mr Hudson-Spruceleigh- they went into it more thoroughly and they came up with their conclusions. I think that Mr Hudson has mentioned, we are not appealing our case on the strength that we do not perform this operation, that in the strict definition of the term, manufacturing can be classified as such; but we dont feel that it is the preponderating part of the business operation, or the function of a farm service mill..., the chief function-Mr Hudson again has made this point and I think it is an important fact, this service that these men are providing,

apart from the custom service, such as you mentioned, Mr Neil, farmers bringing in their grain for grinding and mixing and going back home, it could be provided from a central manufacturing point; they could prepare feeds and ship these out and it would save these men capital investments of many thousands of dollars to equip their mills; but due to the additional cost of transportation, the industry has gone into this of servicing at the farm level, and we feel for that reason, it is a distinctly separate from manufacturing in its commonly understood sense of term. I should also mention that we are not in this Brief, by reason of the limitations that we have provided on page 2, we are not endeavouring to include all our members by any means under this provision. Some of them will be automatically excluded by reason of the services performed and the size of their operation. We readily agree and admit that there should be a classification of manufacturing in the feed industry. We are not endeavouring to place a big blanket over all the plants to be classified as feed mills doing essentially the same service, only in a different intent and purpose, such as the manufacturers, Maple Leaf Mills here in Toronto, Ralston and Quaker Oats in Peterborough and so forth. Their actual function is the same as at the local mills but it has an entirely different purpose and end product. In 95% of our cases of our membership, they would retail 100% of the material that they process; so their entire revenue is derived from a retail basis-not on the manufacturing. The manufacturing end is incidental to the primary function of the business which is retailing, and it is on that interpretation that we are basing our case.

MR HUDSON:

Now accepting the fact that they are trying to classify the type of operation with various specific words, such as wholesale merchant and manufacturer and retail merchant and so on, you're going to have problems with classification, and I think this has been one of the greatest, if not the only real problem in interpreting the Assessment Act in practice. What classification does that particular business fall into? Since the farm service feed mill is the successor to the oldtime 50 barrel a day flour mill, it is our

thought that the context of the present Assessment Act, a way around this problem, this farm service feed mill, a way to remove the inequity from one assessor to the next assessor, to remove the spread from 12% to 75%, taking the two greatest extremes, we could add this category that I attempted to word on page 7, (reads) "Every person carrying..... of the assessed value." Now let's face it, I'm trying to put the most favourable figure down here that can be justified at all-25%. We don't know what the mean figure is from our members, but it is somewhere around 30%, give or take a little. The 25% certainly can be justified because the members of the association are primarily retailers; the other function they do is to support their retailing operation. Surely one can't say that because a hardware merchant goes out and buys his turpentine in barrels and packages it in whiskey bottles, that he is manufacturing; and yet he is packaging-he is processing the turpentine to a certain extent. We don't call him a manufacturer-he is a retail merchant. Obviously we do a lot more than the example of the hardware merchant; but it is the same type of thing we are doing. What we do, we do because we are retailers and we want to retail. Therefore I submit the 25% is justifiable, also the 35% for flour mills; but I think the thing, the essential thing is that all of these people-these farm service feed mills- we put in this definition which excludes the big time operators, the Purina Feeds and so on. I think we all agree that inequalities like this are not only undesirable, but indefensible.

MR MORROW: Would you be of the opinion that the average assessor would be able to interpret this definition in going into mills and assessing them, or would this confound the present situation?

MR HUDSON: No, it's our opinion that...well we prepared this definition with a great deal of care and you'll notice that the definition, the proposed amendment to the Assessment Act, is based on our definition-it incorporates the essential terms of our definition; and we spent a great deal of time, Mr McPhail and I, in determining the essential ingredients of the farm service feed mill. And after we had done that, and worked out the wording, and it was presented

to the Executive of the association and they approved it-they went over it and discussed it and approved our definition, and also the proposed amendment to the Assessment Act.

MR MORROW: The reason we have so many inequities at the present time is as a result of the interpretation placed upon the Act by the assessors. I was just wondering if they would be able to handle it to the satisfaction of the people in the business.

MR MCPHAIL: I dont think this could create a problem because it is specified or classified; there's no question of application of the flour mill.

MR MORROW: How will the assessor be able to determine the rate of maximum milling and the production capacity-the total for example?

MR MCPHAIL: Well that's quite true; it would have to be the manufacturer that was grinding....

MR MORROW: They would be the only ones that would be able to tell them.

MR MCPHAIL: That's right; they would know that a certain mill- a grinder- would have an output of such and such; and you would have to have your mixing operation tie in as well. We're thinking in terms of output, you see. There will be borderline, of course; you're going to have some just on the one side and some just on the other, and the equipment people could set up a scale that could make that difference very clear. Flour mills, of course, were rated in relation to the number of barrels output, and a mill had a standard rating of 50 or 100 or whatever it was; and that was their maximum. Now the feed business is a little different. It is not just as neat and tidy as the flour mill in defining capacity, but it can be done and some members of our association will fall outside that range.

MR EVANS: Fall outside this range proposed?

MR MCPHAIL: Yes-there'll be the larger operators, either by reason of their large capacity or because of the fact that they do a lot of wholesaling. It's the small mills with the retail

stores that fall within this classification.

MR HUDSON: I think the two go together, dont they? The larger processors are also the larger wholesalers.

MR MCPHAIL: Yes, that is mostly true; there might be the odd exception where there is a large local mill with a big volume of business right in their immediate area; but generally speaking it is the large operators that would provide the wholesale type of business.

MR TAYLOR: So that your criterion would be the actual capacity, not the production?

MR HUDSON: The reason we said capacity rather than production is because the actual production is so difficult to....

MR MORROW: It could be variable.

MR HUDSON: Yes, it could be quite variable.

MR TAYLOR: Well your production of 5 tons per hour...

MR HUDSON: Yes, you could have one 5 ton per hour mill operating 24 hours a day and producing more than a 10 ton an hour neighbour-that's true; but I think we've got to leave something to the business judgment of the operator. And also if you're talking about the actual production, then, it seems to me, you would be dependent to a large extent upon the records of the tax payer, which I think is undesirable and should be avoided, from the tax collector's point of view. And if we put it on the basis of so much capacity, then as Mr McPhail mentioned, we believe that we can have the output duration-the productive capacity graded fairly and honestly; is that not right?

MR MCPHAIL: That's right. We would have to work with the equipment manufacturers.

MR MORROW: You have a long term suggestion there as well?

MR HUDSON: Yes, we have a long term suggestion which is designed to eliminate completely all problems of classification-tax all businesses, retailers, wholesalers, even distillers at a flat rate-let's get rid of these problems, and tax business at a given rate. And maybe exclude from this, the very small corner tobacco store and the very small business- I dont know....

MR MORROW: We have been toying with that idea as well, but it has its difficulties which perhaps you might be interested in. Mrs Rowan, would you read us that same analysis that we have made.

MRS ROWAN: We sent out questionnaires to each municipality asking for certain specific information of their business assessment and taxation, and we got about 400 replies, 340 usable replies; and I worked out the average percentage applied in each municipality, and then distributed those municipalities according to type. Metropolitan Toronto I put into one category and the median percentage applied there is 47.6%. Now if that percentage were to be applied within Metropolitan Toronto, it was found that it would result in an increase in the rate applied in 27,543 assessments; and a decrease in 17,443 or on a percentage basis, an increase of 61.2% and a decrease of 38.8%.

MR MORROW: So you see we're going to disappoint more people than we're going to please with the flat rate.

MR MCPHAIL: What would be the net tax-the end result-on this? Would it be higher or lower?

MRS ROWAN: I didn't go that far.

MR HUDSON: What's the average for the province?

MRS ROWAN: The average for the province on the 340 reporting is 35.8%; and an application of that rate would result in an increase in 79,474 assessments; and a decrease in 37,941. Or again on the percentage basis, increase-67.7%; decrease-32.3%.

MR HUDSON: Well if you did apply a flat rate and a lot were increased and a lot were decreased, at least....I think the major complaint here with the members of this association, and I think the greatest majority of them are honest fair-minded citizens, and the problem that they are most concerned with is that there is such a range. And I think this is what bothers Mr McPhail and myself.

MR MORROW: You don't like to pay more than anyone who is in the same business. (yes) Or perhaps, as you pointed out there, two or three mills paying more in one municipality than in

another.

MR EVANS: Just like the man with the three mills, one of them 60% and the others 25%.

MR HUDSON: Yes. This just offends the intelligence of all of us; it's nonsense. I feel that even with these figures, that a flat rate across the province would still be very desirable; but it would very possibly result in the Provincial Government making more grants to municipalities. It would put a greater problem on the shoulders of the province.

MR EVANS: Take, for example, municipalities that have distilleries, they pay 150%- those municipalities would really lose a lot of revenue (yes)

MR MORROW: And somehow that has got to be made up.

MR EVANS: That's right; because their budgets are based on getting that money in.

MR HUDSON: That's a real problem.

MR MCPHAIL: I wonder, Mr Chairman, if you might be able to enlighten me on the base on which business tax is fixed; as I understand it, it's on the assessed value of the land, and that is a given number of square feet. How can you justify charging a different tax for the use of that land to the different classes of business. Now you pointed out a distillery for an example; yet it is taking up the same number of feet in the Province of Ontario as it is in the Dominion of Canada, yet there is this great difference in the tax. It would seem to me that it should be promulgated on the land assessment, rather than for the purpose it is being used. I just wondered- there must be a reason for it, but it has eluded me how they can justify it.

MR MORROW: I think perhaps at the time they put it on in 1910, they perhaps considered distilleries an example of a very lucrative business at that time and they decided they might as well gouge them for as much as possible.

MR MCPHAIL: That substantiates my own thinking.

MR MORROW: I don't think there is any justifiable

reason.

MR HUDSON: One other possible way, but I don't think it is nearly as sure, is to have all of the assessors do their assessments, and require that they do their assessments at a given rate, which I don't think is required now.

MR MORROW: One thing you mentioned in your Brief is that it be mandatory that they use the Provincial Manual. (yes) We have heard from our Provincial Assessment Director, Mr Sloan, who pointed out to us that the Department realizes that that there are many municipalities throughout the province where one manual wouldn't be applicable in every place; so that you'd have to have several manuals in order to get the job done. You just couldn't make one manual fit the whole province, because of its great diversity.

MR MCPHAIL: Well you'll get two assessors, one in one municipality and one in another municipality, both using the provincial manual and they'll still come up with different assessments.

MR HUDSON: Yes, they classify the businesses differently.

MR MORROW: If they can get the thing down so that at least the fundamental principles are a yardstick and made the same throughout, we're getting much closer to the desired result.

MR HUDSON: But if you end up with a range- which so often is the case, the final answer is going to be a compromise of...well maybe not exactly the same rate for all businesses, but a much narrower range of rates, and increase the lowest and decrease the highest, and require that all of the local assessors use a provincial manual that is proscribed by the province for that particular area or locality; I don't know but I feel very, very strongly that the great range of business assessment for the members of this association; I suspect that a similar range applies for other types of business.

MR MORROW: No, it's because of the interpretation by the assessors.

MR EVANS: Some of it is the fact that the assessors- many of them haven't got the qualifications; they are part time assessors and all these men- they haven't got the qualifications, and that's what

is happening. They could take all the provincial manuals and still come up with a different figure entirely. Many of them...

MR HUDSON: They just havent understood what they've read.

MR EVANS: That's right.

MR MORROW: And they put a different interpretation on the Act.

MR MCPHAIL: We have had quite a number of our members report that the assessors come around year after year, and this question of rating for business tax comes up and they have expressed themselves that they wished to goodness that it was defined in the Act to classify properly; and each year it's a real hassle. And presumably the local councils are after the assessors to get all the revenue they can, and they suggest that this class of business could have a higher rate; and they go out and talk it over with the operator, and he endeavours to defend his rate and the assessor hasnt any ground really than to rate him other than...well the only thing he can do now is manufacturer; and we contend that it isnt; it isnt proper that this type of business should be rated the same as a manufacturer who does no retailing. These people are essentially retailers.

MR HUDSON: Does this Committee intend to make recommendations for amendments to the present Act, such as we've suggested on page 7?

MR MORROW: Well I think perhaps in the absence of the Chairman, the Committee would agree with me that we can say that we have been taking a good hard look at business assessment particularly; we have had many Briefs from many different groups, and we realize and appreciate the inequities that run throughout this particularly, and not only just the business part but throughout the whole Assessment Act. And I am sure the Chairman would agree with me when I say we have found many inequities, and it will form one of the major parts of our recommendations when we get around to that point. Nothing has been done about it since 1904-I mean 1910, this business assessment, and your business is just another example of the many businesses that have undergone modernization and change over the years that isnt

just the same business as when you started out when the Act was written. (yes) And there's many new types of business too.

MR HUDSON: Yes, yes. How do you fit them into the old classifications?

MR EVANS: There's one question I'd like to ask; did you ever consider that business tax should be based on gross sales?

MR HUDSON: Yes, yes, we discussed this...but I cant myself visualize how that could help but be very unfair to some and very favourable to others; certainly if you were going to have a flat business of X% or X mills or something for a dollar sale. And unless you broke it down into classifications, because different types of business have completely different margins of profit. I havent got any stock in a distillery, but I understand that's a pretty good business, and they make a reasonable amount on their investment. Now compare this to possibly a wholesaler who turns over an enormous volume but with a very low dollar per sale profit. I think if you're going to base your tax on sales dollars, then you're going to have to have to end up with classifications as you've got here, and I think....

MR EVANS: I think you should still have the classifications, but what I mean, for instance, you can have one business man with a very new modern place, and another man with say, a poor building; but the man with the poor building will be doing more business than the guy in the new building. But the guy in the new building has to pay the higher taxes.

MR MORROW: Mr Evans has a personal experience.

MR EVANS: Yes I have a new building and my business is taxed three times as much as it was before.

MR HUDSON: And you're doing the same business? (yes) Well would it not be best to have an income tax for the municipality?

MR MORROW: I'll beg off that one as far as I'm concerned.

MR HUDSON: I dont mean a personal income tax; I mean a business income tax.

MR EVANS: Well that is similar to what I am saying

and it would also do away with the problem of classifications. The only drawback I have ever heard to that is that municipal councils would know what your gross sales would be; this is something that a lot of business people feel they don't want council to know anything about their business. Now they probably wouldn't know the net, but they would know the gross.

MR MORROW: They don't mind you knowing how many sq. feet you have in your store, but they don't want to reveal their financial condition.

MR HUDSON: Yes. You don't run into that so much in the larger communities, but certainly in your small communities, this is a major factor. (chit chat re small communities)

MR MORROW: Have you anything further, Mr Hudson, Mr McPhail? If not, I'll throw it open to the Members of the Committee, or our Solicitor to ask any questions. Do you think we've missed anything, Mrs Rowan, that we might ask these people?

MRS ROWAN: I don't think so.

MR TAYLOR: There's one comment I have and that is there is a suggestion thrown out about permissive legislation which would enable a municipality either to impose a business tax or not. I wonder if you could comment further on that. This sort of thing does exist in British Columbia.

MR HUDSON: Yes, we were aware of that; we discovered that in our research. That has a lot of merit especially in view of the statistics that Mrs Rowan read out; the wide variation of average business assessment to the province going to an average of 47½ odd in Toronto and an average of 35½ in the whole province—that rather shocked me...

MRS ROWAN: Some of them are lower; the townships are 33½.

MR HUDSON: Of course that's the manufacturing; they are without the manufacturing—they have retailers and so on. Toronto and your larger communities have the manufacturing, so it's ...in view of those statistics, the permissive legislation that you mention has a lot of merit; but I feel, as we mentioned in our Brief, the

permissive legislation would have to be placed within limits, defined by the provincial government, and not left up to each individual municipal council, and I believe that is not the case in the British Columbia legislation. The municipal councils can do whatever they want.

MR TAYLOR: That's right.

MR HUDSON: Well I feel quite strongly, and this was discussed by the executive of the association, and I think I can say that the opinion of the association would be if the permissive legislation was left entirely to the local councils, it could be even more inequitable than what's happening under the present Act. It could get even wider ranges, and this would create even louder squawks; but if the municipal council is held down to a certain specific range of assessment, or...I havent given that any detailed thought, because it seemed...well we werent too favourably impressed with this.

MR MCPHAIL: No, on principle it was a clear case of the province chucking the regulation onto the municipality and forcing them to collect taxes they didnt feel they needed or wanted. On the other hand, we still have this that there is this difference between one municipality and the other-the area of trading; they would still run into this-one municipality could charge it and the other would not. These are some of the questions I have thought about and there are advantages in both.

MR HUDSON: One advantage, I suppose, it would allow a municipality that wanted to become bigger-it would allow them to reduce their assessments and attract industry. They could say instead of a manufacturing assessment of 60%, we'll assess manufacturing at 25%, and poor old Toronto is stuck with its high burden of...it just cant do that, so the new industry goes out to other municipalities, -and this might be a very desirable thing to spread the industry around the province. I personally feel that it is, but this has nothing to do with the Brief.

MR MCPHAIL: You mentioned, I think, that you find the same situation prevailing in other classifications of industry, such as we have in our Brief; does that follow through when you find

operations very clearly and definitely within the category that is spelled out here as a wholesaler or a manufacturer; or do the situations arise from types of business, such as the feed service mill that wasn't in existence at the time when the Act was thought up in 1910. There were no feed service mills at that time. I was just wondering if these other operations where you find this variation in a great many comparable type of businesses....

MR EVANS: One, for instance, is laundromats-it has no category.

MR MORROW: We find particularly that the character of many, many businesses has changed. The wholesaler today is not the same operation as it was many years ago. Your business, as you mentioned there, is the most mixed up business perhaps; you do a little bit of everything, although as you claim you're mostly in the retail business.

MR HUDSON: Well like Eaton's and Simpson's, what we do is because we are retailers. But certainly Eaton's does an awful lot of internal wholesaling.

MR MORROW: But I think perhaps the first thing that is coming to us...it takes so many different classifications-the whole business of the Assessment Act, almost a little bit from the top right down to the bottom, including miscellaneous is here; and the assessors are calling them everything or anything.

MR TAYLOR: We heard from the Ontario Retail Lumber Association- Lumber Dealers Association and their character of business has changed as well; and they explained that they used to take the lumber -the rough lumber- and turn out various products. This is now changed to a type of builder's supplies; but they've been assessed as a lumber dealer, a retail merchant, a wholesale merchant-I can't remember the other ones; and they have this problem as well. And again the cheese factories or processors-whatever you want to call them....

MR HUDSON: What have they been classified as?

MRS ROWAN: As creameries.

MR TAYLOR: And the creamery is sometimes classified as a manufacturer, and I think there's quite a range there as well.

MRS ROWAN: Yes, out of 51 creameries, 20 were assessed at 60%; 4 from 36% to 50%; 12 at 26% to 35%; 10 at 25%; 4 had assessments made out on a divided basis of 25% and 60% and one apparently had evaded the assessment entirely, the business assessment.

MR HUDSON: I believe that too applies to one of our members.

MR MORROW: Your business is really more of a standard type of business and you have a long range of assessments.

MR HUDSON: But with ours, I sympathize with the assessor. But this means if you're not going to have a flat rate of assessment for every business, then you're never going to have an equal assessment, are you? Unless you insist that your assessors are licensed.

MR MORROW: It's a very difficult problem to really come to a perfect solution, and many people have been mulling it over for several years, and suggesting this and that. That, of course, is the purpose of our Committee to recommend something that is a little better than the present situation.

MR HUDSON: Would it assist your Committee if we brought this up to date, to try to get the...all the firms answers?

MR MORROW: Yes, I would say it would give a little more reliability to your sampling-mind you you might come up with the same mean, but it would be interesting, wouldn't it, Mrs Rowan?

MRS ROWAN: Yes, 32 out of 400 is really not large enough, I think.

MR MORROW: We couldn't really establish any reliability on that small number; if we could have say, 75% and not those in the actual business of flour milling, -the retail feed services -and we would then be in a position to know better what we are confronted with.

MR HUDSON: Fine. We'll do that.

MR MORROW: Anything else, Gentlemen? If not we want to thank Mr Hudson and Mr McPhail for their presentation.

W. H. L.

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LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-SIXTH MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
JULY 19th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN, C.A.

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer

APPEARANCE:

Reeve Melvin L. Swart
R.G. Wilson, County Assessor
George Hamilton, Member, Library Board

PRESENTATION:

BRIEF - COUNTY OF WELLAND

COUNTY OF WELLANDHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Well, Gentlemen, we have a quorum now, and these are the gentlemen from Welland County. Mr Swart, you may proceed.

MR SWART: Well Mr Chairman, and Gentlemen, let me first thank you for the opportunity to allow Welland County to present a Brief and to speak in support of it to this Select Committee. In Welland County, due primarily to the large annexations that have been taking place, we have been making quite an extensive study into municipal government- all phases of it, and any changes that perhaps should be made in municipal organization and municipal legislation. To date, we have not finished that study by any means, although we have covered some eight fields, and we are only prepared, at this time, to bring in recommendations on two subjects, and our Brief today is confined to those subjects, that of the public libraries and the Assessment Act.

MR BECKETT: You have specialized.

MR SWART: Yes, we have; and if the Committee lasts for a few more months, we will be back to make representations on the subject of welfare, and perhaps inter-urban roads and a number of other subjects. (apologizes for sending in wrong Brief) I would like to introduce the two gentlemen with me, the Warden, Mr Mitchum, is unable to be here and he asked me to take over; but I have with me Bob Wilson, whom I think you know, the Assessor of Welland County; he is the Past President of the Assessors' Association and he has had various other honours in the assessment field; next to him is Mr George Hamilton, who is a member of our County Library Board, also a member and Past Chairman of the Niagara Falls Library Board, and he has held the Presidency of the Library Trustees Association of both Ontario and Canada. Now Mr Hamilton wants to get away, and the part of the Brief dealing with the Library Act is rather short; so with your permission, Mr Chairman, perhaps we can deal with the Library Act first. This is on the last two pages of the Brief, and as Mr

Hamilton is much more familiar with library matters than I am, perhaps I should just turn it over to him to read and to make any comments that he wishes, as he goes along.

MR BECKETT: All right Mr Hamilton.

MR HAMILTON: Thank you, Mr Chairman. We have set forth the reasons for suggesting that an Advisory Council be established. (reads Brief, The Public Libraries Act, last two pages) "The Special Committee.....Library Services for Ontario." Now in making these suggestions, I can also point out that it has certain temporary implications. The Ontario Library Association, at its recent Convention in Ottawa - it was held last month- set up a committee which has been empowered to study and report on the idea of suggesting that eventually the library be placed in the hands of a commission that would be responsible for its operation. Of course this tentative- a tentative thing- and this suggestion from Welland County to establish an Advisory Council seems like a logical step in this procedure. Thank you, Mr Chairman.

MR BECKETT: Mr Hamilton, under the Public Libraries Act, part 4, where it deals with county libraries, do many counties to your knowledge have a County Library Board?

MR HAMILTON: The last report we had, there were 13 counties in the Province of Ontario with County Library Boards. The trend, Mr Chairman, in county library board operation, has been to encourage the establishment of larger units- they probably would be called Regional Libraries.

MR BECKETT: Larger than counties?

MR HAMILTON: Larger than counties. I should say this- as presently constituted, the county library serves only to provide book service to rural residents; it doesn't take in the municipalities in the counties; the municipalities operate their own type of library

MR BECKETT: But there's no reason why they couldn't, is there?

MR EVANS: Well in Simcoe they have a large Board and a Bookmobile, and it travels not only to the schools but it travels to the different libraries in the municipality.

MR HAMILTON: Well if this situation is set up, this is an arrangement between the municipalities and the local Library Board; we do this in Niagara Falls-we provide Stamford with library service-they contract for payment to the Niagara Falls Public Library Board. You see in the Act as set up, formerly- I think there are some slight changes- but formerly, you had to get the consent of 75% of the existing libraries in the county, and these libraries had to agree to turn over all their liabilities and assets to this new County Board. Now this was very hard to do, as you can understand; it would be hard to do with individuals and it is hard to do with library boards.

MR BECKETT: It is now 50%.

MR HAMILTON: Yes, it is now 50%; there's been a change, but it's still hard to do, as you can understand. We've been trying in Niagara Falls to get amalgamation for some years, and this has been a just between two municipalities. And when you start talking about 50% of the Board of a County, it's difficult.

MR BECKETT: Then under Section 89 of the Act, "every County Library Board shall operate and maintain the library at the branch in each municipality."

MR HAMILTON: Yes that's under the new county. In Welland County, we are established as Welland County Library Co-operative; now we call ourselves the County Library, but we are really the Welland County Library Co-operative, a new term of County Library as we suggest here which would take over certain municipalities.

MR BECKETT: And that would include the City of Niagara Falls?

MR HAMILTON: That would indeed.

MR SINGER: Isn't this suggestion about an advisory council in that report on libraries-I've forgotten the name of the man who made it.

MR HAMILTON: I think you're right, Sir. I found this out at the Convention that there was another Board that had made representation....

MR SINGER: To the Department? (yes) And it followed pretty closely on the recommendations of the Hope Commission. The name of Hope came into my mind when I thought about your suggestions, but I don't think that is the name, and the name of Clark too...

MR HAMILTON: He was from Western Ontario.

MR SINGER: And he made this same recommendation.

MR HAMILTON: I think it would be a good thing really; I think if there's a weakness in the report- our report, it's in the suggestion...we have tried to say how this committee will be set up- how the people will be selected- the mechanics can be worked out later. If there's a weakness, it's our suggestion the committee be composed of such people, and I think perhaps it would be a matter for some professional librarian on there too.

MR SINGER: How about the question about financing libraries? Have you anything on that?

MR HAMILTON: Well as you know, there has been a change in the grants, and...

MR SINGER: The method of calculating; the total is slightly different.

MR HAMILTON: As I understood it, the grants were set up originally in such a way as to reward those municipalities that were doing something for libraries; then this was changed and the new method of calculation does this, that it provides money for municipalities which apparently unable to support adequately...this they hope; I have some reservations on this- this is not always true. That people don't spend money on libraries, this doesn't necessarily mean that they can't afford it. I think we have one or two municipalities perhaps in Welland County that might be in that category.

MR SWART: I think there is one thing we should clear up, George, on the question of about how many counties had libraries, you said 13 and we have a County Library Co-operative. (that's right) It's entirely different from the County Library.

MR HAMILTON: It just bears out what I have said, Mr Chairman, it's difficult to get 50% of the established groups in the

county to agree to turn over all their assets to an outside group.

MR SINGER: In the grant system, isnt there a maximum amount that can be given to any one Board?

MR HAMILTON: Yes, and the figure isnt very high.

MR SINGER: I believe \$2000 is the most you can get.

MR HAMILTON: I think it is somewhat higher than that.

MR BECKETT: Well, we'll look that up right now.

Mr Hamilton, wouldnt you be better able to finance libraries if you had a County Board instead of local boards?

MR HAMILTON: This , I think, is the hope of the new legislation; but it's reception, well...nobody's taken advantage of it. I think the government offers some more ...well rather liberal grants.

MR SWART: There are two very real problems in putting this legislation into effect in any county, No. 1 is the one Mr Hamilton has mentioned, where a municipality or town within the county system has built up their library, and they're reluctant to turn their assets over to a new board; and an even more difficult problem, that the rural municipality within a county which might receive very little use of the urban library, are reluctant to have a mill rate assessment to them for library services when the children in the town can all walk to the libraries, but in the rural areas, they dont receive as much benefit from it. And these two are -I'm not sure there are not others as well- but these react against the actual county library being formed.

MR BECKETT: Wouldnt modern means of transportation change that?

MR SWART: To some extent, but only to a degree. The library is the largest grant and is used by children and by elderly people who do not drive, and certainly out in the rural areas, 5 or 10 miles away from a library, there wont be as large a percentage of the people use it as those who are right in towns.

MR BECKETT: That's where they really believe in local autonmy.

MR HAMILTON: Mind you, I think eventually that this

type of legislation can be made effective, the kind that is on the books now; but I think...you gentlemen are aware of what is involved when you work with people-sometimes you have to go pretty slowly.

MR BECKETT: It's a matter of a little education.

MR HAMILTON: Yes and it takes time.

MR SINGER: What about the matter of co-operation of public libraries and school libraries; have you given any thought to that?

MR HAMILTON: Well the County Library Co-operative provides services to all the schools; the inspectors cannot speak highly enough of this. Now our circulation last year, I think was over 300,000 books among rural children where 12 -13 years ago there was no circulation. Now that's the picture in the country; we couldn't ask for anything better than we've got in working with our local school boards, the inspectors, and we're happy with this-it's a wonderful thing. In the municipality, the secondary schools have libraries; I don't know what the primary schools have. What happens in the municipality is that the teachers bring their classes to the librarian; the librarians maintain story hours which they run on Saturdays for the young people. I think that there's quite a good use made by young people, both for pleasure and for educational purposes within the community.

MR SINGER: I'd often thought- I had a couple of years on the Library Board- and I tried to work out a joint system of running the library services in my municipality, not having the Board of Education doing one set of services and the municipality doing another-double expenditures of money and double use of space, and that sort of thing. But I couldn't get anyone convinced that this was a good idea. But it seems to have merit to me, and I was wondering if you'd go for this sort of thing.

MR HAMILTON: Well I have to admit that what you say strikes a very harmonious note as far as I'm concerned; and I have approached the librarians with this, but they say no, because the schools must maintain quite a large collection of specialized books, which deal with the class work. Now, not only that, they should have

more than one copy of many books on hand. If the library had to do this, this would create real problems for them. We had one problem this spring, when public school teachers were taking certain university courses, and there were books recommended. Now I think we keep about 5 copies of this book, but there were about 75-100 people taking this course, you see and it becomes involved. I think there's quite a definite place for the school library.

MR SINGER: But you still have the problem though; and each new school has to have another room and more books and another person or a couple of persons hired specially with teachers salaries to be librarians; and it closes down two or three months of the year.

MR HAMILTON: Well that's so the teachers can recover; you know what a parent goes through with 2 or 3; a teacher has 40-50 and needs some time. (chit chat)

MR MORROW: Of course the books in the school library, as you pointed out, are just supplementary educational courses.

MR HAMILTON: Yes, and of course what Mr Singer has in mind the books would be more for special reading, would they not? It would take some research.

MR SINGER: A public library circulates books among people who are interested, and the thing that occurs to me is there is duplication of facilities, and there should be some method of getting these two groups together; you might even stock a different set of books or in different sections.

MR HAMILTON: I think they'd be very happy about it if this kind of system could be worked out. I know at the university level they're up against the same thing. They have a big university library, and every department has its own library, and it seems to be the only way they can handle it.

MR SINGER: What about salaries for library personnel- and the various technical people?

MR HAMILTON: It's extremely difficult to speak about salaries at trustees meetings; at least 15 years ago, I suggested a book...you see the teachers salaries, they have a blue book; they

list every teachers salary qualifications and a similar thing should be gotten out for librarians; but it was turned down and the reason it was turned down was at that particular time there were a few libraries paying reasonable salaries, and many were paying poor salaries; and they felt it would have a bad effect rather than good. And nothing has been done so I cant speak about librarian salaries, except the starting salary for librarians- professional librarians who have a library degree, they probably have their B.A. and their B.L.S. runs somewhere between \$4500 and \$5000. And they would be for the larger centres like Toronto. And to get that degree, they have their 3 or 4 years in Arts and a year at Library School.

MR SINGER: What is the starting salary for a high school teacher?

MR HAMILTON: Somewhere in the same range, but the maximum is not as high for a librarian.

MR BECKETT: Do they work the same number of months as a high school teacher?

MR HAMILTON: Most librarians have one months holidays. They work 11 months with a 35-37 hour work week; it's rather hard to compare them with school teachers any more than you would a doctor and a lawyer. I think the librarian has certain duties and certain strains which she must face, but it's not quite the same as facing 30-40 kids all day. A number of teachers who didnt fare too well at the hands of students have become very successful librarians. I'm not saying this unkindly; I think librarians generally should be paid a bit more. They do a very good job.

MR BECKETT: Well thank you very much Mr Hamilton.
(Mr Hamilton is excused) Now you may proceed, Mr Swart.

MR SWART: Mr Chairman and Gentlemen, for the remainder of our Brief, we deal with the matter of assessment and the Assessment Act. This Brief was prepared last fall; there are a few items in the requested amendments which have been enacted; I should also say that this Brief has been prepared under the existing municipal organization; we may bring in a recommendation eventually,

as already stated, to change the municipal organization, suggesting regional government and that sort of thing, but this has been prepared from the viewpoint of the county as it is at the present time. Perhaps I should also say I know you've had some other Briefs on assessment- I know our assessor has already been here- now with that introduction, I'll carry on with the first part. (reads The Assessment Act R.S.O. 1960-Chapter 23- Suggestions re amendment of the Assesseent Act) "This portion of our Brief.....to taxation." I would also like to say, Mr Chairman, in general terms, we think the Assessment Act is good; we think there's been a big improvement in the assessment system during the last 8 or 10 years since we've had county assessors, and I think perhaps more competent assessors. I want to say, though, I think we always have to keep in mind the ratio of costs of assessment in relation to taxes received, and we dont want to get into too highly technical and extensive assessment, where they have to assess every door or anything of that nature; where your cost of assessment would be out of proportion to taxes received. The first Section deals with interpretations. (reads, page 1, last para) "It is noted.... Manufacturer, etc!"

MR SINGER: How would you expand "Farm and Farmer"?

MR SWART: Well I'm not sure that we can provide the answers for this.

MR SINGER: We've been looking for an answer to this for quite a while.

MR SWART: There is certainly some real problem where you put a farmer's son or daughter on the assessment roll... rather the voters list-he has to decide what constitutes a farmer, and there's a real problem involved in interpretation.

MR WILSON: I feel that the biggest difficulty arises to the application of the two sections contained in the Act in regard to exemptions, first of all, of farm land; and similarly the application of wood lots. In one instance, it's 5 acres shown as farm land; in the others it's 20 acres. It seems to me that our problem arises from the actual occupation of a farm. That is some

farms are not truly being farmed; the owner's occupation is other than farming.

MR SINGER: Is it assessed as his major occupation?

MR WILSON: No, I don't think it should be but it is difficult for the assessor sometimes to distinguish between what is being used for farm purposes and what is not. I submit the problem that better minds than ours probably will have to decipher and should interpret.

MR BECKETT: Some of the other county assessors are going to furnish the Committee with a definition of what is a farm, and who is a farmer.

MR WILSON: I think the other day, Sir, I was asked that same question and I told you then that I wouldn't be prepared to accept the responsibility. (chitchat)

MR SWART: There is some problem, I'm told, on the interpretation too of "manufacturer"; and this perhaps could be somewhat more plainly defined. Do you think this would be possible?

MR SINGER: We were hearing about that this morning.

MR MORROW: The retail feed people - how do you assess these retail feed people-mills, you know?

MR BECKETT: From a business tax standpoint?

MR WILSON: It depends on what is the predominating business; if it is retailing and they're in a municipality with a population that requires 35%, it would apply....

MR MORROW: You go along on the predominating business?

MR WILSON: Yes and if they are a ^{milling} million, they would be up to 50%.

MR MORROW: Do you consider they manufacture at all?

MR WILSON: I would not say they manufacture; they are milling although they do mix ingredients and so on; but still they are not creating a new product. A manufacturer, as I understand it, is a person who takes raw material and makes something else entirely new from that raw material; while a processor in effect is taking that item and making something out of it, but not changing the

the nature of it; and this is the problem.

MR BECKETT: Could that be a cheese factory?

MR WILSON: It could be a cheese factory, although according to the decisions, the cheese factory is a manufacturer. But I'm thinking particularly of a stone quarry, where raw stone is taken and is crushed and you have various sizes of stone; he is actually processing a product- stone and it's still stone. But in effect, he is a processor.

MR MORROW: They had an appeal to their case though this morning where the judge gave the decision they were manufacturing.

MR WILSON: Yes, that's true; in fact in our own county, we treat our stone quarries as...

MR MORROW: No, I was referring to these feed people.

MR WILSON: Well I disagree with that decision.

MR MCNEIL: But that particular case was the exception rather than the rule; they were doing some wholesaling.

MR WILSON: As wholesalers, they would be 75%.

MR SWART: Section 4 - Exemptions....

MR BECKETT: Excuse me, when you say that, do you think you could write out a definition of the word that would cover it in all its aspects. Or have you such a definition?

MR SWART: No, I haven't. I'm thinking that further on in the Act, they do define professional people, and you might be able to even write in classifications of manufacturers or processors. Section 4 - Exemptions - (reads, page 2, para 3) "S.S. (3) provides for exemption.....the Assessment Act." This I know is not a new recommendation, and I realize there are problems involved in this too; it would seem that where cemeteries are not associated with religious organizations or are not municipal cemeteries, but they are commercial cemeteries, we feel we have a sound reason they should be assessed and taxed.

MR GORDON: You're thinking of the Memorial Gardens?

MR SWART: Yes, I am. We have one in my own municipality.

MR GORDON: And that is a profit making organization- it is very highly profitable.

MR SWART: It sure is.

MR BECKETT: Arent all cemeteries in business in one way or another?

MR SINGER: Yes they're in business, but they're not necessarily in a profit making business. The Toronto Burial Grounds for instance, it's non profit.

MR GORDON: Brantford Cemetery is non profit, but these Memorial Cemeteries are profit making. The State of New York wont have them- over five years ago, they put the ban on them. And they are a very profitable organization and the way they work, it is just something fantastic.

MR BECKETT: Were you on the Select Committee on cemeteries?

MR GORDON: I was.

MR BECKETT: And did they recommend that there be no more private companies operating cemeteries?

MR GORDON: I just dont recall the full report about that; they made certain regulations, for instance, all salesmen had to be bonded and so on; but what came out of that Committee in connection of the Memorial Gardens was just that they were very profitable.

MR SWART: The unfortunate part of this too, is that they can be abandoned and left to the municipality to keep them; as has been said, they are extremely profitable; in fact in our municipality, it's probably the most profitable business going.

MR SINGER: Doesnt the legislation now provide for perpetual care and licensing. (yes)

MR GORDON: These Memorial Gardens, the company's set up and it operates for ten years; and in ten years time, they've sold everything; and they turn the whole operation over to the employees, and the principals get out with their bags and baggage and the money; and the employees have the Perpetual Care Fund which



gives them wages and so on; and then of course they have the selling of the graves of the people who move away and they want to sell it. But the principals who went in there first, and the head of it is a Mr Williams from Boston; he's the president of every one.

MR MORROW: They'd take the gold filling out of your teeth?

MR GORDON: They certainly would.

MR WILSON: I might say that under subsection 3, there is a provision that these cemeteries that receive the exemption must be enclosed; and assessors generally have endeavoured to get the Memorial Gardens under this particular clause in the Act, but they have been unsuccessful before the courts. We lost out-they say they don't have to be enclosed even though the Act says they should be. The majority of the Memorial Gardens are not enclosed by fences or anything else; they are left open. And this is the only ground on which we thought we could assess them.

MR SINGER: In Toronto, Mr Gray has been assessing the building, if a caretaker lives on the grounds.

MR WILSON: He lost out in that last year too. A caretaker's residence is exempted by the courts; it said it was a necessary part of his occupation to be on the grounds and live on the grounds.

MR SINGER: With his family and his children?

MR WILSON: Yes, with his family and his children; now we had a similar condition in our county in regard to the Crippled Children's Camp on Lake Erie, where the caretaker had to live there. And we did assess the building and the courts removed it, and the municipality started to charge them for the education of the children-they had four youngsters going to school, and I think the amount for education came to well over \$500; and as a result, they asked to be put back as taxable, because they were only paying \$75 taxes.

MR GORDON: I think, Mr Chairman, we should get the report from the Cemetery Committee; it must be 8 or 10 years since that came out, but I would say these Memorial Gardens- this is a profit making organization, and it should be taxed.

MR SWART: Subsection 8. (reads, page 2, para 3, line 11) "It is our opinion..... and taxable." It is our feeling that certainly overpasses and toll bridges are becoming more and more common, and they take up a great deal of land in a municipality; if there's no toll on them, they're not revenue producing, then there is certainly no reason to tax them. But where they are revenue producing, they should be taxed. We have one going up over the old ship canal at St Catharines and there will be two more before too long in the Welland and Port Colborne area and then we have all the international bridges.

MR GORDON: These will be toll bridges?

MR SWART: It's expected that they will be- you people know more about that than we do....

MR BECKETT: But your international bridges now ... you have a number of grants....

MR WILSON: They pay a grant in lieu of taxes; we have an assessment on them at the present time of \$5 million, but they pay a grant in lieu of taxes; we fill in the roll at the starting of the year of this \$5 million; after the tax rate is arrived at, we then reduce that assessment by the amount that we don't receive in grants, and it brings the assessment down to less than \$1 million.

MR BECKETT: Is it the same way in Niagara Falls?

MR WILSON: Niagara Falls, I don't know what their agreement is there, but I understand they don't pay any taxes at all.

MR SINGER: Are you suggesting in this that they be assessed for all purposes, real estate, education, business tax?

MR SWART: We are saying they should be assessed for municipal purposes.

MR SINGER: For all municipal purposes (yes) Does it follow then that all municipally owned property should be assessed? I'm talking about your Welland Bridge.

MR SWART: We don't have anything in the Brief, but my personal opinion is yes.

MR SINGER: Certainly you'd have to say that to be

consistent. This has long been a bone of contention. I feel this way too, but the government argues that since they pay grants for education purposes and for other purposes, it balances up.

MR SWART: It is certainly true that it comes out of one public pocket and goes into another public pocket, but if they are going to be fair, they should all be assessed.

MR BECKETT: But one pocket is larger than the other.

MR SWART: Yes the poor municipal pocket is pretty small.

MR SINGER: There's a substantial argument from Niagara Falls where the Parks Commission, for instance operates all those stores in competition with merchants who are assessable; and they are not assessable.

MR SWART: This is very true on these toll bridges, like the one near St Catharines which takes up, I don't know how many acres of land-but hundreds of acres of land which normally is assessable. And this doesn't hurt St Catharines so much now; but when it was...well part of it was in the Township of Niagara, where you had a small municipality, this did hurt.

MR GORDON: And some of that land and buildings would bring in quite a sum of assessment.

MR SWART: That's right; not only that but farms that are now the Queen Elizabeth Way. (continues, page 2, last para) "We are also.....exempt classification." Now we recognize that this is a difficult thing and is doubtless politically unpopular. It is easy to keep on giving more and more exemptions, and we feel you should start by removing all exemptions.

MR BECKETT: How in the name of goodness do you remove all exemptions?

MR WILSON: I think, Sir, when we say remove all exemptions, we refer particularly to churches. I'm a church member; my church is exempt at the present time so my contribution has to be a little bit more; but in effect, I'm paying that now at any rate by giving them the exemption in the municipality. So I don't think it hurts me; but it hurts those who are not church members probably.

Or rather they would get the benefit.

MR BECKETT: You could put them in categories for business tax, those churches, and cemeteries and universities-put them into categories and say universities should pay 50%, churches-40% and so on.

MR WILSON: I think this could be rated out; it would take a fair investigation, of course, to allocate the proper percentages. We did this back in 1903 as far as the business assessment was concerned, and now we find that it isn't working out. The percentages should have been changed in between time and the same condition may arise if we set up categories now.

MR SWART: The next one deals with Business Assessment. (reads, page 3, line 1) "The Business Assessment.....the return received." This matter of business assessment in the municipalities is like they do in the government is sort of build up a straw like Topsy and the reasons for the percentages don't exist any longer and these are the opinions of our county on the matter of business assessment.

MR SINGER: Do you think there'd be any merit in having one assessment?

MR SWART: I would think not, if you're asking a question; I think it is too.... you mean one business assessment?

MR SINGER: One business assessment 40%.

MR SWART: I think the purpose of business assessment is to give some relationship to income; and there are certain businesses such as a small grocery store and other small businesses, that really don't make that kind of money on their investment; and I think they should have a lower business assessment than the manufacturer.

MR SINGER: This is contrary to what you say; you say all retailers should be in the same rate.

MR SWART: Well at 30%; that would be dropping it from 35% to 30%, bringing it down.

MR SINGER: But then you put the small grocery store in the same category as Loblaw.

MR WILSON: Well of course most of Loblaw's stores today are in more than five branches of the retail trade, and as a result are paying the higher percentage. I'm talking of Loblaw's and chain stores generally.

MR SINGER: The small grocery store is too, if you want to be mean about it.

MR WILSON: We don't want to be mean. (chit chat)

MR SINGER: Aren't you going to run into the problem of trying to guess, and you're bound to be inaccurate, if you're trying to get at profits, unless you see balance sheets?

MR WILSON: Well we did, as we mentioned the other day, we did investigate the possibility of using income, that is the gross receipts or the net receipts as a means of setting business assessment, but we felt that this would require a great deal of training on the part of the assessor, first of all to be able to read a balance sheet, and to know exactly with what he was working. And this is something we didn't feel that we could get out of the more than 900 assessors in the province...more than 1800 assessors.

MR SINGER: I'm not suggesting that this should be done, but I'm suggesting that really if you're trying to be equitable to get at the problem, this is really the only way you can do it; and perhaps the mechanical difficulty of this would rule it out.

MR WILSON: In a practical way it would, but it's the only basis.

MR SINGER: Well that's why I come back to the suggestion of one percentage which...

MR TAYLOR: Would you put the insurance companies in the 100% category?

MR WILSON: Yes, insurance companies are financial businesses, but not the agent. The agent is in of course at the present time at 50%.

MR TAYLOR: We had the argument that they are mostly mutual companies now, and they should be in a similar position as PSI. And PSI have had a ruling that they weren't in business and

shouldnt be assessed for business tax.

MR WILSON: Well it's our position that they be in for 100%; they are in a financial business the same as the bank.

MR MORROW: They say they are owned by the policy holder.

MR BECKETT: What about the distiller?

MR EVANS: What about the lawyer?

MR SWART: I dont think their argument is very sound; any business perhaps is owned by the customers; but you actually have an incorporated business in the insurance companies. And you cost the business for the amount of assessment that they have.

MR BECKETT: Somebody profits by it. (chit chat)
Well we want to simplify it as much as possible and to make it more equitable.

MR SWART: You'll never get it exactly fair unless you figure it on the income; but this is impractical, and you have many other taxes on the income perhaps, and if we want to be roughly fair, say 3 or 4 taxes.

MR SINGER: Do you think there's any merit in collecting business tax across the province in districts or counties in an effort to eliminate competition in the municipalities for this type of assessment?

MR SWART: I dont think there is without looking at the whole municipal organization; I would think your costs of bookkeeping and so on, of getting it in and distributing it back again-you'd use a lot of it there, and the municipalities wouldnt get the benefit of it; but it is something to look at in the overall revamping of the municipal structure and municipal planning.

MR SINGER: We've looked at comparisons of different municipal systems on the same type of business, and one of our criticisms is that in certain municipalities, they find it advisable to lower category when there seems to be a doubt of definition in order to keep a factory or to keep somebody happy. And this constant violent competition for new industry is not good....

MR SWART: The alternative is to make it mandatory

and see it's enforced.

MR WILSON: I think this has held true from my own experience, in going into municipalities that I had never worked in before-coming fresh from another area- I have found instances where manufacturers were at 25%, and other people with percentages of even 10%; now I don't know where they got them from, as far as the Act is concerned, but very definitely these inducements were there.

MR SINGER: We had a chap here this morning telling us about the feed service mills, and one owner in three different municipalities with three different business assessments ranging from 60% to 25%.

MR EVANS: Why do you say it's not practical to take it on gross sales?

MR SWART: I would say that bookkeeping, assessing on the total gross sales of any business in any particular municipality, and attempting to levy on that, would perhaps involve more bookkeeping than it would be worth.

MR BECKETT: You may get more out of it.

MR SWART: You might, but you might get more if you increased the business tax too.

MR WILSON: Of course that would level off over the whole of the municipality. You only require so much money to run your municipality, and if you got more there, it would lower it some place else, that's true. But I don't think this is practical for assessors generally. They are not trained to cover books in the manner that you would have to do it; you'd almost have to be a good bookkeeper, or even in some particular instances, an auditor.

MR SINGER: You'd have other problems too; you're talking about gross sales or net sales.

MR EVANS: Gross sales.

MR SINGER: Gross sales on an item where there is a small profit-there would have to be a reflection of....

MR EVANS: Well, you'd still have to work out the mechanics.

MR WILSON: It would have to be net sales, I think or net profit.

MR SINGER: The income tax people have enough trouble figuring out what your net profit is.

MR SWART: It would involve terrific bookkeeping problems; it is more simple to take the assessment at 60% than to try to find out the net profit of small business or larger business too. Section 10, (continues, page 3, last para) "It is our opinion..... ..of application." In the Townships, the telephone company pays on lineage and we feel that the both companies...it should be based on gross receipts.

MR SINGER: But there are very small municipalities who complain about the very small gross receipts.

MR WILSON: I think you'll find now that the gross receipts exceed the mileage rates.

MR SINGER: Even in large rural townships?

MR WILSON: Except large rural townships very far up north; but even there, I don't think you'll find that the results will be detrimental to the municipality.

MR SWART: Section 13, (reads, page 4, para 1) "We recommend..... be removed." And of course this is the Section that limits us to 5% of the gross receipts of the telephone company. And you cannot levy above that amount in municipal taxes, and the municipality must make up to the other boards and commissions the amount of money to which they are entitled; and with municipal taxation going up very rapidly, the municipalities are going to reach this maximum or have reached it, so it simply means that in the large cities, a mill rate of 66 $\frac{2}{3}$ is the maximum that you can levy against the gross receipts of the telephone companies. In the smaller areas, it's about 83 or 82 $\frac{1}{2}$ mills; above that you have to make that up out of other taxation.

MR BECKETT: What would you recommend in place of Section 13?

MR SWART: We recommend that the limitation be

taken off. Then if the municipality in their wisdom feels they must levy 100 mills against the rest of the taxpayers, then it should be levied against the telephone companies in that municipality.

MR WILSON: Particularly when it is based on gross receipts, as it is mentioned here, then they would all be treated in the same manner. And it wouldn't matter what the mill rate was, all would be treated equal.

MR SINGER: It is probably needless to say that the views of the telephone company were quite contrary to that.

MR SWART: That is right. In fact the Ontario Mayors and Reeves presented this, and someone was here from the Bell Telephone Company at that time; but I am not convinced and I think this is very unjust in a municipality that hasn't got industry or for some other reason, they have a very high cost-maybe they have to put their sewers in through rock- all of their taxpayers in that municipality are paying more; but there is a limit on what you can assess the telephone company, and I say this is wrong in principle; and from a practical point of view, of course, the telephone company is not in a position where they can't meet the small amounts- additional amounts. Section 20, (reads, page 4, para 2) "We suggest.....head-of-the-house." This has been changed to some degree-I'm not sure that it has completely eliminated the problem where a man can be disenfranchised. We suggest that the man should carry on the...not the tradition, but the illusion he is head of the house. (laughter and chit chat) Before we leave that, has the legislation been changed to provide for this?

MR BECKETT: Not exactly.

MRS ROWAN: (reads) "The assessor shall also enter on the roll (the name of owner or tenant & name of the husband or wife) as the case may be, of such owner or tenant for the purpose of being a municipal elector under the Municipal Act unless the wife or husband does not reside in or within 5 miles of the municipality."

MR SWART: This would not cover it.

MR WILSON: No, it doesn't. Maybe if you go back into...there's a reference to another subsection; it still requires

that he shall be shown as MFMC if he is not an owner nor a tenant; he must be shown as Married Franchise.

MR SWART: There was a person disqualified some place under this provision; the woman owned the property.

MR SINGER: George Mitchell was disqualified in North York after he was elected; he was unseated by the courts and his wiferan and got elected in his place.

MR BECKETT: Sometimes it pays off. (laughter)

MR SWART: (continues, page 4 para 3) "s.s.2- We are advised.....realized." The thinking here is that the Department should have forms, then they could be in a manner which can be used on the machines and so on; it would put the responsibility on them rather than on us. There is a technicality in Section 32 and we suggest that subsection 1 and 2 could be included in one s.s. and the same in subsection 3 and 4. Section 35, s.s. 1 (reads, page 4, last para) "We note.....in all municipalities." The majority of municipalities, I think, and the majority of counties are using this manual, and in the majority of municipalities, there is not a proper relationship between assessment value and real value.

MR SINGER: You'd probably have to reorganize your grant structure and your rates of assessment.

MR SWART: Well if you have to, then, perhaps it needs it.

MR BECKETT: That is outside of the terms of reference of this Committee.

MR SINGER: I could debate that.

MR BECKETT: I don't think that is included in the index of Related Acts.

MR SINGER: Well I'm sure it relates to the municipalities, and if the grants are producing bad things, we should have something to say about it.

MR BECKETT: The grants are coming from another level of government.

MR WILSON: Mr Chairman, I don't think the grants

themselves are producing bad things; I think it is the assessment that is providing ill use of the grants, because the assessors are assessing on different bases in the various municipalities. And if they were all assessing on the same base, then of course take your location, such as the north country, and take it into consideration, which would have to be weighted in this manual, then very definitely the grants could be distributed more equitably-the grants which we have now. I don't think there is any suggestion here, Sir, that the grants method should be changed, but certainly the means of being distributed should be changed.

MR BECKETT: In other words, the basis.

MR SWART: Mr Chairman, at the present time, there is more than grants affected by this matter of unequal assessment between municipalities, as you know, on such things as suburban roads, when you have a limit of a half mill; you may have areas where the city may be assessing; this was true in our area for a number of years on a much lower basis than the county- at about two-thirds-and therefore the half mill which they contributed to the county wasn't really a half mill; we should have had more for suburban roads than we could demand. Also today, the province does set up a method of spot checking assessments throughout the various municipalities. This is better than not having it certainly; but on the other hand, the nature of it is only a spot check- it's not very accurate- it can vary up to 15%; but if everyone was using the manual.... the same manual...well....

MR BECKETT: Then if you had a larger unit, you'd overcome that, where cities or towns were included in that unit for assessment purposes.

MR SWART: You would overcome the difficulty of suburban roads, yes. I was saying to our assessor, I feel this could be put in politically now without hardly creating a ripple. Section 39, (reads, page 5, para 2) "It is our.....being served. This Section, of course, deals with golf courses.

MR SINGER: I can't agree with the last part of the last sentence. I think there is a very satisfactory result being served, and that is you are keeping large open green spaces in the

centres of built up municipalities.

MR WILSON: Sir, may I ask how many municipalities or how many golf courses have asked that this be made applicable so far as assessment is concerned or the collection of taxes?

MR SINGER: I think there were...in my time there were three in North York.

MR WILSON: I have several in my county and none has applied for it.

MR SINGER: Because obviously the thinking in the minds of the people who direct the golf courses is, that when the land gets too valuable, they'll sell it and move on out; and they don't want to be burdened with this. Rosedale and York Downs and I think there was one more- both felt they wanted...they liked the sites-Rosedale is partly in the City of Toronto and partly in North York, and York Downs is entirely in North York-both felt they wanted to stay where they are in perpetuity. If there wasn't an arrangement like this, eventually they'd have been driven out.

MR BECKETT: Are these golf clubs that you mention privately owned or pay as you play?

MR WILSON: Both. The only one that we don't get too much is the Niagara Parks Commission. We have Oakdale, Cherry Hill, Lookout Point, Port Colborne Club and three new courses being built right now and none of them have applied.

MR SWART: Is there any reason why the other people in the municipality should subsidize the golf courses. It's the only place now with a fixed assessment, I believe.

MR BECKETT: It's only permissive.

MR SINGER: Well don't you think it is an advantage to a municipality to maintain as long as it can...you mean private or privately controlled green areas?

MR BECKETT: It doesn't cost much to service them.

MR WILSON: In our particular area, I'd much rather see our fruitlands being preserved.

MR SINGER: I agree with that- I don't think there

is any alternative, rather necessarily alternatives.

MR SWART: It cost quite a bit to bypass them.
Section 40 - (reads, page 5, last para) "We suggest....other manner!"
This again would be over a public utilities company, particularly the gas company where in other than transmission lines, they dont have to give the information to the assessor; and we feel that they should be required to do so. Transmission lines, I believe, is given from the Department of...from the Fuel Board.

MR WILSON: Now the Department of Energy, I believe.

MR SWART: Section 41, s.s. 6, and I believe s.s. 7 should be included in this. (reads, page 6, para 1) "If a municipality.....line accordingly." We think it is only fair that all property should be treated in a similar fashion; we think it is only fair.

MR WILSON: At the present time, they are limited to 1940; any pipe built after 1940 cannot receive depreciation; any pipe prior to that does. And very often a municipality will bring their depreciation up to the year 1960 but will not depreciate the pipe beyond the year 1940; and this is unfair to the pipeline. If you are going to be realistic about it, you've got to go all the way down the line.

MR SWART: And then also Subsection 7, (reads, page 6, para 2) "Under Section 35,.....in accordance therewith."
This says in effect that pipelines should be assessed at their real value the same as any other property.

MR BECKETT: All pipelines?

MR SWART: All pipelines, right.

MR BECKETT: Transmission and distribution?

MR SWART: Yes. Section 43, (reads, page 6, para 3) "Assess public.....many words!" And this is really just the wording that they have to pay taxes equal to that assessment. But we feel they should just be able to assess them in the normal manner.
ion 46 is catching up with this ...the word "steam" should be...

MR BECKETT: Modernize it.

MR SWART: Section 47, (reads, page 6, para 5)

"Assessments of properties.....of this Section."

MR SINGER: On the otherhand if you fix a base year and you change it say, every five years, you'd have to have this.

MR WILSON: Well you'd adjust the railways....

MR SINGER: The same as everyone else is adjusted.

MR WILSON: Yes, that's right.

MR SWART: Section 51, (reads, page 6, last para) "It seems....court of revision." I presume this makes it mandatory on the clerk and we feel it should be made mandatory on the other officials etc. Sections 53 and 54. Once again I believe this is usually done, but the onus is put on the clerk by the Act, and we suggest it should be the assessor. Sections 60,61,62 and 63, (reads, page 7, para 2) "It appears....were removed."

MR BECKETT: We had a suggestion here the other day that there be an independent court of revision set up.

MR SWART: Appointed by whom?

MR BECKETT: Well appointed by the province, I suppose, likely a board which would remove the matter of assessment appeal from any elected body.

MR WILSON: In effect, Sir, that is just what we are asking here, that these be independent courts, that is, other than council members. Also, we do feel that in the higher courts, and I'm talking now beyond the court of revision, possibly there is a necessity there for replacing most of the county judges because he has other duties that are onerous enough that he can give very little time to the Municipal Board; another Board that is overburdened at the present time with annexation applications-I mean Board work and so forth; very often we find that we cant get an appointment to hear anything over a great period of time, and then the decision rendered is quite a lengthy time after that; if an independent court was set up by the province, a court dealing with appeals beyond the Court of Revision, before they become....this is on a question of fact only that I'm talking about, not a question of law, then I think the answer would be more satisfactory than we have at the present time through the judges

courts and the Ontario Municipal Board.

MR BECKETT: You wouldnt give them the authority in a matter of law.

MR WILSON: Well I think they could deal with a matter of law; but at the present time the Supreme Court has said that up to and including the Ontario Municipal Board, they have no right to adjudicate.

MR BECKETT: Under the British North America Act.

MR WILSON: Yes, Sir; and it would mean a change in the British North America Act to enable that Board to get that power to deal with a question of law.

MR BECKETT: And yet the fact of whether you are assessable or not is really a question of law.

MR WILSON: Well in effect, the Act does give the power, and the courts take it away from them. The Act states that the Court of Revision, the County Court Judge and the Ontario Municipal Board can use the same way of judging as the assessor does; and in effect the assessor has to interpret the Act, therefore he is deciding a question of law in the performance of his duties; now why cant these boards do the same thing? And yet the Supreme Court has said no.

MR SWART: Section 64, (reads, page 7, para 3)
"Provide a choice.....county council concerned."

MR WILSON: May I add to that, Sir, that it may be possible where a county court of revision is set up, that one court can not satisfactorily handle the work within that county; I'm thinking now of a county such as the County of Renfrew where there are exceedingly long distances to travel between one municipality and another; it might be advisable in such an instance to have two courts or even three courts, appointed by the county-three man courts. It could satisfactorily work within a given area, relating of course the decisions there to the other courts in the adjoining section where they are working. I do think this could be broadened out to provide for more than one court if necessary, because I can see in Renfrew, for instance, this would be a very difficult problem for the court to travel from one end of that county to another.

MR BECKETT: Couldnt you have a court with more members, and two could sit

MR WILSON: Well that would be just as satisfactory, Sir.

MR SWART: Section 65A, (roads, page 7, para 5)
 "We suggest.....to another." Under the present legislation, the county has the county assessment system and it is mandatory that a court be appointed for each municipality. If you have a county assessor, you have one court of revision. But if you have a county assessment system, you have one court in each municipality and may deal with all matters of appeal, including local improvements; and we suggest that this be permissive and have one court of revision instead of one for each municipality. Section 75, (reads, page 7, last para)
 "It is suggested.....assessor." Section 93A, (reads, page 8, para 1)
 "At present the application.....involved."

MR BECKETT: Holding 75% of the assessment.

MR SWART: I dont think that would be agreeable to have that worked in.

MR SINGER: Why 75% rather than the majority?

MR SWART: Because you are taking away from the municipality the rights that they have had delegated to them; and I dont think you should do that by a simple majority of county council. County council is a co-operative group, not a senior level of government, and I dont think by simple majority they should have the right to take away from all the rest of the council, their jurisdiction in this field. You should have a very strong feeling that this should be a case before you do it, I believe.

MR SINGER: You have a similar objection from it being imposed from above, by the province, without reference to the county council.

MR SWART: Yes, I would think there would be considerable objection in some cases, yes.

MR SINGER: One gentleman, I think it was in the assessment group, said-skating nicely around the problem- well if that's the law, we'll obey it.

MR WILSON: I dont think that was me, (no) because my particular opinion is that it should be a simple majority; this is my own particular opinion.

MR BECKETT: But that came from an assessor.

MR SINGER: Yes, yes; it was one man with the assessment group-I dont think it was you.

MR WILSON: I think it was Mr Hepditch.

MR SWART: Section 111, (reads, page 8, para 3) "With rising..... of \$10.00." It's worth \$10.00 to do the necessary work of assessing and taxing and collecting for those parts of land- we feel it's worth \$10.00. Section 119, (reads, page 8, last para) "The fee for a simple.... work entailed. I believe it's 25¢....

MR SINGER: Isnt it 35¢ now?

MR BECKETT: It was 25¢; what is it Mr Taylor?

MR TAYLOR: 25¢. Tax arrears were 35¢, now \$1.00.

MR SWART: Section 119A, (reads page 9, para 1) "We suggest.....providing the service." This perhaps might be better in the Municipal Act rather than in the Assessment Act.

MR SINGER: The courts, of course, could charge now. But the assessor has no....

MR WILSON: We cannot charge nor the municipality cannot charge for this service; and it's now becoming quite a problem in the Assessment Departments, particularly with the credit agents.

MR SINGER: Who's the custodian of the rolls?

MR WILSON: The clerk is the custodian of the rolls; but the assessor usually has a copy of all that material, and it's the Assessment Department that they call.

MR SINGER: Wouldnt it be a simple thing that since the clerk has the rolls, the clerk has the power to furnish information.

MR WILSON: Well usually they've already been to the clerk and....

MR GORDON: The credit agencies are a profit making organization; they should pay for the information they get, because they sell that information.

MR SWART: That's right. In our municipality, one third of the phone calls- a record was kept- with a request for this type of information.

MR BECKETT: How much would you suggest as a fee?

MR WILSON: I think it should be a nominal fee; it depends on what information they want. You're charging 50¢ for a certificate of taxes; why not charge 50¢ for this information. They, in turn, sell it at a much higher fee.

MR GORDON: Of course; they're in business.

MR SINGER: How do you determine it's a credit agency?

MR WILSON: They tell you who's calling.

MR SINGER: Suppose an individual says, I'm appealing my assessment and I want all the assessments on both sides of the street?

MR WILSON: Well that's a different matter; the taxpayer, we feel, has a right to this information. But when you get a list of maybe 20-30 properties to look up for a credit agency, you can see how much time it can take in your office to prepare this information and turn it over to them.

MR TAYLOR: Do you have real estate agents checking this and planning boards?

MR WILSON: We usually find that real estate agents reciprocate with information; we ask them for information on their sales and so forth; mind you we can get some of this from the Registry Office, but very often we have unregistered sales. We ask them for information in regard to rentals, and they're very free and easy with giving that information; and we're only too pleased to work with them. But a credit agency-we get nothing from, and theirs is the greatest amount of work.

MR SWART: I would say permissive legislation so that we can charge all of these bodies that want this information; but we're not going to charge the taxpayer who may want information to appeal his assessment. But for those who are using it for commercial purposes. The municipality wouldnt have to enact the legislat-

ion, but in an area such as ours, we could enact it. Mr Chairman, the last are just technicalities. Section 244 and Section 245, (roads, page 9, para 3 and 4) "As this provides..... at the end of Section 34" Mr Chairman and Gentlemen, this is our submission to date.

MR BECKETT: And we appreciate it very much. If you have any further thoughts, will you send them on to us; because without your help, we cant perform our task.

MR SWART: I expect we will have quite a voluminous presentation later in the year. As we said, we've been studying the County Libraries, Assessment and six other subjects and we hope to prepare a report on each one with recommendations; we are now actually waiting to write these reports. I am going, along with the clerk of county, on a municipal tour of the European countries in September, which is sponsored by the Institute of Municipal Affairs and....

MR BECKETT: You have been selected?

MR SWART: Yes, I won their....we're going and after we get back, we're going to finalize these other reports.

MR BECKETT: Well thank you very much.

LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-SEVENTH MEETING OF THE
SELECT COMMITTEE OF THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
AUGUST 8th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

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MRS H.G. ROWAN, C.A.

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Mayor Charlotte Whitton, City of Ottawa

PRESENTATION:

ORAL SUBMISSION

MAYOR CHARLOTTE WHITTON, OTTAWA

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Your Worship, if you will please come up here (introduces the Committee etc). Now you may proceed any way you wish; I might say we've had a good many Briefs and delegations appear before the Committee, and we are anxious to hear anybody who wishes to express their views on any of the Acts concerning municipalities. You have no doubt read our terms of reference (yes) they are very,very wide, and it is a big task.

MAYOR WHITTON: At the last meeting, Mr Chairman, you were good enough to ask me to come up and give the talk I gave at the Mayors and Reeves Meeting-you were good enough to say, Mr Chairman that the Members would like me to develop and discuss it; so that is why I'm here. I want to take care of the more technical municipal points and our Financial Commissioner will present a Brief on Friday. Mine is in part legislation and part administration. (chit chat with Mr Morrow)

MR BECKETT: You may proceed, Your Worship.

MAYOR WHITTON: Well Mr Chairman, if I might take the background against which I want to offer these suggestions again for discussion, and I hope consideration and recommendation, that the situation, I feel, from eight years now in the field of administration, is that a great deal of our problem is quite as much in more realistic administration, as it is in changing the legislation; and that we have to take that against the background of what has been happening. Now I'm speaking particularly of the cities of our size, which I call the middle cities, you have over a third of the population of this province in Greater Toronto now; and then you have at the other end, nearly 90% of the province not municipally organized at all, even though we are the most populous province. And you've got direct municipal administration in there, which because of its directness and its simplicity and the ability of the officials to do a thing, leaves them perhaps not to be as fully aware of why there's a long process in municipal procedure in the organized municipalities. Then you come along to

the 574 rural and townships and the 34 counties, and you've got another type of community organization dealing pretty directly-the elective representatives-with a few officials able to deal fairly well with them. Now in between, not only in Ontario, but across Canada, I think that's where you've got the tremendous problem and the tremendous challenge to the old legislation and practice today. And the new census shows, as far as one can judge at this time, in the 19 cities of the metropolitan areas including Toronto and Montreal-that in those there has been about 20% growth-one of the heaviest growths across Canada; and within that, in the heart of those cities, there's only been between 9% and 10%; in fact Toronto has gone back about 1% in the core of the city, and 42% are in the suburban fringes. Now it is that problem of the middle group which I think, from Ontario and the rest of the country, offers the greatest challenge to the old legislation and practices. Because here is what you've got. We have it in Ottawa to a greater degree; Hamilton has it; London has it; Windsor has it. You have a core of the city, highly technical, heavy financial obligations and provisions, and highly qualified technical staff. And you try to deal at your administrative level, your civil service level with your problem; but all about you, the communities you're working with, are the townships, the small police villages with their elected representatives; so here you constantly- this play back and forth- that the elected representatives of the major areas are delegating to scientific and technically trained people, the preparation, the study and the reference back to us for policy. But they have to go and meet, either just with consultants for the elected group, or the elected representatives, and you've got the policy and the administration tied up all the time, and interlocking and difficulty. And that is one of the major things that our officials feel in a general way- and not coming through council particularly- but that I feel very strongly; and I think the province is turning towards that in its administration, and that is, that ~~there~~ should be some provisions for periodical conferences. By that I mean quarterly, or area people in the different regions in administration in the Municipal Affairs Dep-

artment, perhaps changing them back and forth. Now the OMB is planning from the 1st of September to try something like that by taking Ottawa and holding hearings the first of each month in Ottawa for what we can call the Ottawa area. But I feel that you can amend the legislation right, left and up the centre, but if you could only get this realistic conference from the provincial officials conferring with the municipal groups on the area basis, that that would create a great deal more understanding, and we could do more under our existing legislation; and so it against this that I want to speak, and of course the first major thing which I feel is that the federal authority even in Ottawa, where we have closer relations with the federal authority than any other municipality, it is unrealistically remote from the problems of the municipality, which in turn makes them less appreciative of the difficulties of the province in respect to the redistribution of finance. And I believe that part of the problem should be solved, that we in the municipality should take a greater part in it, and that is by getting the municipalities across the country to a real conference on the property tax, and that tax basis; because we have the most intimate and the closest and the costliest hour to hour administration of municipal business in the municipality and yet we have only the one source of taxation, the property and the business based on it; and a few of these dog licenses, for keeping a dog or keeping a wife and such like. And they dont amount to much. I dont mean the dogs and the wives...I mean....

MR BECKETT: You dont mean poll taxes?

MAYOR WHITTON: No, I think that....

MR SINGER: Do you think we should have more revenue or less responsibility?

MAYOR WHITTON: I think that the answer might be in both, Mr Singer. I think we can get a great deal more revenue by making legislation more realistically than we're doing and develop from that, and my changes are largely directed towards the Municipal Act and the Assessment Act, in my observations. With this reservation, I do think that the time has come when there should be frank

facing of the relationship of the education authorities to the municipal. Our taxation this year, we, with terrific effort in the City of Ottawa, we reduced our general tax rate. The last year I was Mayor, we reduced it one year $1\frac{1}{2}$ mills, only to have this completely swamped by the school increases. The tax rate went up although the general tax rate had gone down by our control of it. First of all, we have an appointed Collegiate Board instead of an elected one; but there is the problem here that in long tradition, and I think you provincial representatives who are elected would feel quite as much as the municipal, the education people- the school board- seems to be regarded by the general public as on a higher level of creature than we who are elected for the general purposes. I do not support the proposals that that the school and the school tax and budget should go under council. We have not time to go into the details; we haven't time to give that attention; but I do feel that there should be an amendment on the capital borrowing to this point, that today if a council feels that you shouldn't build a double gym this year, you shouldn't tie up your borrowing, that the whole debenture request is extravagant, then if we refuse it, we can't have a plebiscite unless the school board asks for it; and consequently what happened in nine cases out of ten the school authorities put on a tremendous canvass and beat you into granting it. Now I think that a great deal would be corrected if the Act were amended so that the municipality could ask for the vote on the capital expenditure, so that we can control the capital expenditure but I think every municipality of major size across the province is staggering far more from heavy school debentures of the last ten years than from anything, except those cities that have civic hospitals.

MR COWLING: Dont you think, Mr Chairman, that this thing has been talked about for years and years that council has no control over the expenditures of the school board. They have to accept their budget. Now I was on the Toronto council as you know and had the same deal with the Toronto Board of Education; but at the same time, on the tax bill now it indicates the amount of money that is being spent on education, and every Toronto tax payer can see what he

has to pay. And if the people are not satisfied with the job the Trustees, who are elected, are doing on behalf of the schools; then if they are not satisfied with the expenditures on an extra gym, or these so-called frills, then dont you think the people would do something about it? Isnt it an indication that the people are fairly happy with the way the school board is operating, or else they would demand some change? Now as far as I can see- you can answer this : question-it isnt the people, the citizens, who want to change the educational set-up; it is the municipal councillors that want to change it.

MAYOR WHITTON: Yes, because it's we who get it; what happens at election time? You folks standing for the Board of Control or Council; and they say, Oh, the School Board is here-we'll have to hear the Trustees- so the Trustees trip along and they make a speech about we're going to have the finest playroom...and there are 60 people in an area with about 30,000 on the voting list, at the meeting. And what do the people complain about? The taxes. They chew their heads off about the taxes. We got a separate tax bill in Ottawa, and it made such an uproar that the school board got out and they canvassed to have it merged again. It's not that the public is satisfied. The public is apathetic, and we are the trustees of the tax rate-not the school board. I dont know how it is here, but my general experience is that when they go to speak, they talk about the grounds; they talk about the teachers; they talk about...the public doesnt even know that they are the people that give us these taxes. The real estate men and the property owners, they do find it out; but I feel that if you have co-authority, you should have co-privilege on this matter. I would stake my political life at re-election that those votes going to the people would not have been supported for those things at this time. Well we pleaded with the school board to take it to the people, and then we would get our warrant to spend. Oh no, they wouldnt have it; and I think the council should have the same right as the school board to ask for a vote. Then to answer to your question, Mr Cowling, are the public satisfied? All right then, they're satisfied, and they understand and we'll do that then; but I dont think that one in a

thousand of the voters or taxpayers understand.

MR EVANS: Mr Chairman could I ask the Mayor this question? Do you think all school boards should be elected?

MAYOR WHITTON: Yes I do. Because they are taxing bodies really-all we are are tax collectors for them. They hand out that levy for current, and we get the interest on the thing; and I do feel that in responsible government, they should be elected- not appointed. We have not a Board of Education in Ottawa- it's a peculiar situation, a particular situation there, but I do feel that since they are taxing bodies, they should be elected.

MR BECKETT: You Worship, the composition of the Planning Board by the Act, so many from council- all appointed by council, but some are in council and some are outside; how would that work for your school board on that same basis?

MAYOR WHITTON: Well, the Collegiate Board of Ottawa is appointed somewhat like that; the Separate School Board has a nominee; the Public School Board has a nominee, and the council names 6 in a period of 2 years, 2 years, 2 years. And what is happening in the collegiates across the country is-then the boards themselves appoint vocational and advisory bodies to develop the big composite collegiates and they are not elected at all and they are not appointed even by the elected body. And they are larger than the board and they swing the board. And the board does recruit the six from them. Just you try in the council to get somebody that wasnt in the bull-pen there, and see what happens; you'd get them licked to a frazzle. They may be the Registrar of a University, as one was a year ago; he tried to break the ring. I think that anybody that is taxing directly or by one one removed- the public school board is elected and so is the Separate- but I do not feel that the control should go to the limit without attempting to handle, in a municipal body, the current estimates. I feel the responsibility should be made very very clear, but for this capital debt, you can be going along; you can be planning, and your debt is near its limit-you have a \$4 million project, say for a trunk sewer that's going to bring 7000-8000 acres into production, in the servic-

ing for industrial production; you've discussed the whole matter, and who's interested in sewers or water which is the basis of your earnings? And what happens? The school board comes along, and it has the Home and School, and they pass a beautiful new thing with a double auditorium- \$2,700,000. And your sewer stays there. And you have no control over that to get a vote to the people on that....

MR COWLING: It's a pretty rough comparison, sewers and schools.

MAYOR WHITTON: Yes, but I made it for that very reason, Mr Cowling, that the public...I'd be murdered at the University Women's Club if I got up and said that bringing sewers to the City of Ottawa \$1,500,000 that will bring in 7000 acres of the city and 4500 acres for Gloucester into service at once; we've made our water agreement for taking our water to the border; this is the thing that will add \$25 million in assessment- in the buildings that will go up- I mean 11,000 acres. What has that to do with the home economics room; there are 30 doz cups and saucers in each home economics room-well you know what that's for-it's for an assembly; it's for entertaining the local groups- the Home and School and the other groups that meet there. What lobby could you put up against that? Well I'm talking practical politics, and I say that simple thing would be fair to us all. All right then you have the vote, and the public says: No. The colleges and the public and the vocational schools- they get this \$3million- you say they should do with \$1,800,000. Well we're glad to carry it out but today we cant ask the public.

MR COWLING: Dont you think though that it would certainly bog down- you're talking about administration, that's the background of what you have to say- if you're going to run to the people and ask them to make decisions on the things that the school board and the council is supposed to make decisions on....

MAYOR WHITTON: I'm not saying on all things; I'm saying on contraction of capital debt beyond what a responsible council considers it will allow it to operate and give it a fair decision.

MR SINGER: What's your test? When does a council

start being responsible?

MR BECKETT: Well supposing you had a percentage...

MR SINGER: Well it's reasonably clear in the illustration the mayor gives when she talks about double auditoriums; suppose you talk about 10 classrooms instead of 8?

MAYOR WHITTON: No but here's the situation that is going on all across the province, and that's administration again. The Department of Education will pass the capital grants for 20 years or whatever the period and put them on a maximum of a class room figure that they set. All right; that was devised to be a protection to the province and to the municipality. But what happens? The school board takes and instead of the \$10,000 a classroom that is the maximum of which the province will contribute as a capital figure...oh they come down with \$18,000, \$20,000, \$22,000 and even \$30,000....

MR EVANS: It's \$30,000, \$50,000 and \$60,000 in a collegiate.

MAYOR WHITTON: I didnt go that high, but they'll come... and what does the province do? The province does the most blameworthy thing in my judgment. The province says: We approve these plans-they're wonderful; we'll give our consent to the plan. Then, Mr Cowling the boards come back and say: Here's the letter from the Minister of the Department; it's all approved. We say in council: But heavens above, you're going to pay 250% over the class room cost that the province has approved; and you're going to carry the interest on that, and you're not going to get your grant, your operating grant on anything but that flat rate maximum that they have approved. Now I say that at that stage, that this should be made abundantly clear -we have split our council-finances have done that, and we're reaching the saturation point in the new schools to some degree; but this is the sort of thing...now we've said: If you want to spend \$40,000 a classroom on the taxes of the people against the province thing- the \$10,000- well you can go to hell your own way practically-you can spend it any way you like-this is all they're approving. And this approval of the whole building-this confuses the public. The school

board says: No we wont take it to a plebiscite. I feel that the middle way...I dont favour-and this is my own impression- that the budget be taken under control by the council; I think it's too big and responsible an area for us to be attempting to handle their budget, the teacher's salaries, qualifications and this sort of thing. I do feel that we should have the right-the municipal taxing body- should have the right to ask for a referendum. We did say no; we deferred it; we made them put the one gym up and do it in two sections. And we said: Go to the people, but they didnt go to the people. They held it over.

MR SINGER: They'd beat you if you went to the people.

MAYOR WHITTON: I would stake my reelection each year, and that's why they wouldnt go to the people; they know I'd lick them on that at that time. And this is what I think; if you go to the people, and the people say yes, then you're in the clear in your municipality. You're clear with the Municipal Board and you can go up....

MR SINGER: You're in the clear insofar as your conscience goes, but you're not in the clear insofar as the complaints of the people who pay the taxes. All they understand is that last year they payed \$250, and this year it's \$270.

MAYOR WHITTON: They understand this- no you cant have your six covered rinks at \$1 $\frac{1}{2}$ million; you cant have them because you voted for a double gym away out with a new subdivider, so that we can sell his houses for him. They'll understand that.

MR BECKETT: Your Worship, that was my point, to put a limit, and when they go beyond the limit of the grant of the province then automatically it should be voted on.

MAYOR WHITTON: All I want is that the councils be given the same legislative provision; if your council decides not to use it, they dont; but they're really the only authority to ask the people if they want something or not.

MR SINGER: Well I had the experience in my municipality where the board embarked on a tri-level system of education; I was head of the municipality and I went into the financial aspect

very carefully, documented my case, I thought very well, showing that the costs would go up about 50%, took it out to Home and School clubs and Ratepayers Associations, and noone could have cared less. The school board stood up and said this is going to be a better system of education even though it costs a little more.

MAYOR WHITTON: It's apathy, but Mr Singer, you didnt get those people the same as the business people in Ottawa- some of them- they campaign against me; they talk against me; they give support against me when I run for election, but when they get to that ballot box, with just them and God and that ballot, I get almost every business vote. It's one thing to get up at a meeting with 500-600 people there, the Home and School, the University Women's Club, the B & P's and all the rest of them; to get up there and say, no, this isnt good business, and then to let you have a ballot which you go in and mark and say, that \$2 million credit here to the city and \$1 million to the schools is as much as the province says is necessary for 20 classrooms and a gym and the rest; and \$1 million for your other capital purposes. This is all I say here is that you are depriving the municipality of a fundamental right to ask the people, and the school boards have that right. Well that makes us a secondary governmental power.

MR BECKETT: Your Worship, if you had members of the council sitting on the school board, would it change the situation?

MAYOR WHITTON: No.

MR MORROW: How about in order to take both parties into the picture, dont you think it is a good idea to have a representative at the school board meetings to keep the council briefed at all times about what is going on.

MAYOR WHITTON: There's another thing I think is wrong, and we cant stop; we started trying to hold this capital; then what what happened? One of the school boards started buying all the properties out of current, and it meant $\frac{1}{4}$ mill on the debt to spread it over, because we were at our limit. And we found ourselves with half a million current. And they wouldnt talk to us and because it was in current, we couldnt change it. And I think that is the other thing

that happens to the capital in respect to this, because you give a school board half a million dollars, or a quarter million dollars in current for school sites that may become desirable to acquire during the year. Of course if we people in the municipal field, if we tried to do that, buy a site anywhere without...well this is the sort of thing, that if that one clause, that one provision, if we were given equality. This is the only reference I'm making here today, and I don't want to get it out of proportion.

MR BECKETT: It is not part of our terms of reference really, but it is all hooked up with taxation. (chit chat)

MAYOR WHITTON: I think we owe it to our municipalities to get together right across the board on the question that Mr Singer has raised- is it less responsibility or more revenue that we need. And I think the province should then bring together the municipalities with themselves and let us have a provincial-municipal meeting and then from that a provincial- federal in respect to the whole taxation structure that we've got with the heavy infinite day to day unpredictable expenditures, and inability to ...perhaps I shouldn't say deficit financing at all. This is where we get it very heavily in Ottawa- but it is the position of every municipality to some extent. You go into partnership with the province in anything, and the province can operate on bond issues for 20-30-40 years. They can operate on deficits that carry them over; the municipality must balance within each 12 months. Here you are a partner...it's like a man expecting his wife to buy a house on her housekeeping allowance. And as the capital works of the municipality- these larger ones- when these become so heavy, that problem becomes greater- and of having to operate within that one year with no ability to go outside. I think that as you have one or two year terms, that the precaution is a wise one; that if we enter into a contract longer than the term of our council, we must have the OMB approval- that's a safeguard there; but that question in respect to financing, of course the Federation of the Municipalities is pushing for the Municipal Assistance Credits Act, so that the provinces can do that borrowing or the dominion, and farm it out. But

at the present time, the City of Ottawa has a better borrowing rate than any but four provinces. So we wouldn't benefit from that at the present time- with good administration (laughter) This I take is the background and I would suggest, Mr Chairman, that in both administration and legislation, that we couldn't have a better objective in the municipalities than the provinces; whose creatures we are, than to attempt to have all realignment and re-organization as our objective of Confederation in 1967. To try to get this realignment...but it has to come, I think, by the municipalities doing more- getting together from the ground up and asking the federal and asking the province from the top down.

MR BECKETT: Would a larger unit of administration, such as regional planning, be of any assistance?

MAYOR WHITTON: This is another thing, I think, in major administration, from my point of view. I think we've got to have a look at a place like London and divide our function, and we've got to look more to larger regional areas for what I call the developmental and the works and the administration; leave the day to day life of your municipality in the hands of local people. You can't look at your... nearly 30 years ago, I was first sent over to the League of Nations for my Degree in History, and back...look back for a century and not realize that the countries that have remained most stable and free are those like Britain and Switzerland, that have held their municipal government strongly. It is much harder to smear over 1000 municipalities, no matter how inefficient some of them are, than ten. And I think that in the division of function, and certainly yes, that there has got to be a larger area approach, and division in respect to the taxation within there. I think, for instance, that in Ottawa we are doing something rather interesting in the last year, and we'll offer a little different pattern perhaps than your metro, and that is that in our big township to the west, we have entered into a regional contract, whereby we have become their water works department for their east central plant; but we deliver the water to the township on the same basis as you would to a house, and they take on from there what

rate they pay. Now we've done the same with Gloucester Township- not to the extent that we have developed- to the east, and there is a meeting tomorrow, and I'm hoping that we're going to be able to do an even more interesting thing and become the sewer department and service Gloucester to the east.

MR COWLING: Just on that point, Mr Chairman, having regard to the extent of our metropolitan government here, would you suggest then that that could be extended to other areas in Ontario.

MAYOR WHITTON: You see it's like Ottawa, Mr Cowling, you hear about the metropolitan plans through the press, but you don't see much of your great success until you come up here...I should think that perhaps in London and those areas, but in Ottawa, you have to realize that a third of the population of the area lives across the river and in another province; and well we're making a study at the moment partly because we think there are about 50,000 more people in our 260,000 population in the daytime than at night. The people live elsewhere and come back and forth; but where you have like Windsor, where you are in another country, but with us with our transport our employment, our come and go, we have to find a different proposition too- we have the central government too. But I do think that on the planning and operating area- sewers and water- thanks, you gave help in that too, Mr Morrow, now we've got the arrangement with the collegiates; here we were having these collegiates built and carrying the whole thing- that is the thing I wanted to go to the people on, building 20-30-40 room collegiates and public schools 200 yards from the township boundary. Now we have made the contract and the collegiates are going up in the townships under contract with the Ottawa Collegiate Board- they're taking the contract to administer them. It is a tremendous advantage too, that they get the rural grants, both capital and current. We would get about 22½% if they were on this side; but the township would get about 71% on that side; but this is a fairer thing because we were charging about \$80 - \$100 a year a pupil; so there by agreement among a group of municipalities- at a planning area board we asked the Minister to allow us to nominate, and we

would carry on our Planning Board the Reeve of ~~Nepan~~ and the Reeve of Gloucester; Ottawa is operating in that experiment one person short of the majority, because we also thought the best way to bring the Dominion in was to have the National Capital Commission which is organically and legally quite separate from the Federal subsidiaries- to have them on and to have Central Mortgage and Housing. Because there is another thing, Mr Chairman, that I do not think in the planning that we have realized sufficiently, that the biggest planning agency in my opinion is the Central Mortgage and Housing. They give the grants; they approve the housing, the type and everything, and it's just like a dachshund; they pull you completely out of shape. You go and decide on this area, and you're going to do this, and the first thing you learn is that some syndicate in Montreal or Toronto, or more likely Chicago or Switzerland have developed a great big area, and they have got bans for 2000-3000 houses- outside capital and completely outside your province, your city, and you find you have got to change your whole planning. And I think, Mr Chairman, on the planning, if there was a closer approximation to the highway areas- if the whole province was divided into highway department areas and if you were more closely in touch with your municipalities in there, with your Highway Department and with your Planning Authority, because transport is your key. Now there is something that relates to what Mr Singer has said- less responsibility or more revenue- because you cant take it generally. You take our city from the first of January for 91 days, we paid out \$1,300,000 for snow removal in that period. Hamilton at the same time paid out somewhere around \$100,000- but there is no agency but the municipality can keep your streets cleared for life and business there. And the Highways Department can do it more cheaply, but they're going straight along; they dont have to stop at every intersection with their snow blowers and their ploughs. And they dont have to cart their snow away. They're just going straight along, so one of the things I think would be to approximate these areas of the Highways Department to snow and maintenance so that there was a base for the province, and as those vary, your subsidy varies. Do

you see what I mean? With the province's own responsibility.

MR MORROW: For your interest, Mayor Whitton, I had that discussion with the Department nearly two years ago; I didn't get too far with Mr Cass on the matter, but it was submitted and argued. I remember it was to establish a norm for the province and then add or subtract from that where the snow fell, or possibly where it piled.

MAYOR WHITTON: To maintain responsibility...you have to do it-nobody else can do it; that storm starts and we have to keep our crews two hours ahead. We have now gone in with a weather reporting agency in Malton that's been more accurate than any we've had before. They've been able to tell us the snowfall- it's an inch or an inch and a half, but you've got to keep your municipality open.

MR SINGLER: That isn't really the type of responsibility I had in mind; I recognize that you can't escape that, but I'm talking about things like the administration of justice, welfare, city jails and that sort of things.

MAYOR WHITTON: I think the administration of justice- it's one of the points I have down here- I think the time has come because of the fluidity of life on this area basis for the administration of justice to be carried very largely by the province. In Ottawa, I'm a member of the Police Commission-well I would say of these 31 bad accidents we had on the Civic Holiday weekend-the worst weekend we had; you see it's not a holiday in Quebec and consequently most of Ottawa steps out Friday night and have a gorgeous Civic Holiday in Montreal or anywhere across the border; and they come back, everything oiled and greased to the nut behind the wheel; and they're all over the place. Now you take hospital support; they're not our residents....

MR BECKETT: They are your residents, if they've gone out and come back.

MAYOR WHITTON: No, the trouble is they run into other people. We've had 3 American tourists in the last 10 or 12 days and we're trying to keep it out of the bars: See Ottawa and Die! This is our new one; it used to be See Naples and Die! Now here's a question that we have asked, we register a nominal price for the sale of land

in the Registry Office, and I say that 90% of the big sales go right through and make their registration in Toronto at the actual price; now we're months catching up with that- what the price really was- for our assessment. But the court houses and the jails, and the jails more and more, I think, have to be removed from the centre of the city to the area. Now there again we've made our agreements in the past year, we've made most definite progress in the county and the city; we've taken the juvenile and family court, and they're taking the proportion related to population and assessment, and this is the first time, of the debentures. The county is taking and issuing those debentures, and we're doing the balance. Formerly, we had to carry we had to carry all of those, but I think the administration of justice for its uniformity, for its standards and generally.....

MR MORROW: Then you have the core municipalities carrying this extra load of hospitalization.

MAYOR WHITTON: Yes. I think that's another question- that's outside your legislation. I've been acquainted with this for over 30 years...well I've been convinced for over a quarter of a century that hospital care is moving as fast as it possibly can with any safety to an approximation of its goal; that you're going to have your hospital care provided at a standard as you have under the insurance today; and you'll have private-you have that in England today and people will practice in the private or the public as they see fit and I would say that within five years, perhaps or maybe 10, the Ontario Hospital Services Commission will have to take over regional hospitals around some regional areas....

MR SINGER: Build them themselves?

MAYOR WHITTON: Build them or lease them.

MR SINGER: Staff them and operate them?

MAYOR WHITTON: Yes, because it's fantastic. Look today what you've got just in the City of Ottawa in the Civic Hospital with 1000 beds. What have we got? We have 100 beds made up and not nursed. What's happening? Because one area is taking nurses from another area, but here's what you've got; you've got there 1000 beds,

and what do you have to do? We have a budget of over \$1 million a month; under the Ottawa Act, the mayor is a statutory member of the board and now the head of the medical is statutory; the others are one controller, one alderman named by council and 6 citizens. We have over a million dollars a month. Now our budget has to be drawn in detail down to every last thing; and that has to go up about September to the Hospital Services Commission; they have to have auditors in there all the time continuously because we're working on that budget, and the Trustees meeting and putting it through; they're checking expenditure to pay on the '62 budget, and they work this all out in detail; they're continuously down there; they're a fine body to work with. Then we calculate the cost, and they calculate that cost at say \$23.64 a day-I think at the moment. And then what do they do? They have to check on our empty beds; they have to check on our patient days; and then this great big outpatient, in which there are certain drugs, and so on; and we are borrowing \$5,400,000 to put up another civic hospital- so I have to get back tonight for a meeting of that interim board. Now this is going on all over the Province of Ontario; a 10-bed hospital up in the county, to 50-bed, to your 1500-bed hospitals, and negotiations back and forth with us and on our budget and with the cities. And then with your big catholic hospitals, where in a city like ours, that's municipal, they have to take the difference from the outpatients. We take it in the city. We're passing capital budgets-we have to come up here for our beds and that...and I think that that again is not legislation-it's fundamental though to the survival of the municipality. And I think that those hospitals under lease or contract or this budget-it's going to be, I think, like the British system and the Swedish, that the regional hospitals will have to be operated by the Commission-the big teaching and research hospitals will be excluded, because wherever you have them, you have the discipline and the control of the university staff, and they must be freer; and private money will pour in there.

MR SINGER: Are you suggesting there should be no municipal financing...that this will happen?

MAYOR WHITTON: Well I think there may be, Mr Singer- maybe you could experiment there...we've started a little ahead of the thing; we insure our indigents and carry them. But today, the result of 24 months of the Hospital Services Commission is that last year and this year, we're not going to have so many from the city. There is the other thing, that while there is a desirable feature, if you can keep it under an arrangement of some kind, and that is that the Commission is very realistic and co-operative in allowing a differential, and while we don't get any grants towards deficit, they're allowing us a higher differential for the private care and the semi-private care, and so we're carrying our debenture. The Civic Hospital is always repaying every dollar of debenture interest, principal and interest; it's practically a utility. That is what I'm trying to say, Mr Chairman, that the hospitals will become social utilities. And then you see, you've got the big private companies, insurance, and the Teacher's Federation- the different bodies- you've got them carrying the difference in the plus. And people are prepared to pay that. And I'm satisfied that while we're in politics in this province- I mean on a larger scale than in the cities- I would not be afraid to go out and ask the people of Ontario- Let's increase the hospital rate- your insurance rate 25¢ a month, and take the out-patient. This is the other thing that if the Hospital Services Commission were carrying the hospital, they'd carry the outpatient, as every province but Ontario is now doing under contract. And to relieve the pressure on the hospitals, we have now a home care program for the aged. We have some 300-400 of our older people boarding in private homes- private nursing homes. When they have a heart condition or an arthritis condition, we put them in the hospital at \$23 a day, and they are certified by the doctor; all right it doesn't cost us anything for the expensive drugs; but if we place her out at \$3 a day in a nice pleasant home, we have to absorb the drug costs of course- but it is a terrific saving.

MR SINGER: Your concern in Ottawa is a little different from ours in North York as a city which has a Civic Hospital.

but in North York now, which has a population now larger than you, we have 200 beds only; and we have 4 or 5 organizations that have put drives on for public funds, and have approached the municipality asking for substantial sums of money. They want to put the question on the ballot asking the people at this municipal election whether they would consent to having an extra mill on the tax rate for a hospital capital grant for the next ten years; do you think this is a municipal function?

MAYOR WHITTON: Well I think it becomes a very difficult one to do it that way, because I think there is no more excellent standard of care given in the hospitals of Ontario than by certain of the Roman Catholic religious orders. And if you're going to put that mill on the tax rate for grants, then you are faced with a situation comparable to the separate schools and the public schools; that if you are going to put the mill rate and hand it over to a private corporation, then you are handing over capital investment of the municipality; otherwise you'll have to have your separate boards. I think this is all merged in the Ontario Hospital Services Commission, because they have a direct relationship; they're using their application as a private hospital...I mean their contribution as a private hospital whether it is Jewish, Catholic, Salvation Army or it's municipal, those payments are made and all those elements are wrapped in. I imagine, Mr Singer, your problem is another one that I think again that you may have to have permissive legislation, but this interlocks all the services coming under this; and this is really financing rather than legislation that has caught us up in where we are; and the Legislature is the body that has to answer all of this.

MR BECKETT: Is it practical?

MAYOR WHITTON: Yes. And this is why I say if the each provincial official from the different departments were sent down into these areas quarterly to sit down with us because this is why Metro Toronto has worked, because you people could go back and forth and discuss, and then the provincial is right in your back yard and some of you divide up the work of this thing, but what do we have

to do? We have to send a delegation up or we have to arrange weeks for officials to come down- come and meet with the Board of Control, perhaps for a whole day. The problem we're up against now, in fact I was talking to the Warden last night, Mr Morrow, here is the Municipality, and we have now over...well the new debenture will be \$5,400,000 on the new hospital, and we have about \$8 million debentures to pay off on the Civic Hospital; but about 24% of the care in there are residents of the Townships of wealthy Rockcliffe, right within us is a separate village, and Eastview, 22,000 people, and we thought that Eastview was then planning to build a hospital, but they built it two blocks inside Ottawa, and there isn't an Ottawa person on it, and we're paying it. Now there is the thing...there is one great big subdivision- you know the mayor is the statutory member of the Planning Board-and they're putting up a \$30 million project, and they look to have 3000 people in about 30 months, and 60,000 people in 15 years within one of the poorest townships in the county. Well I put it up to them, and they agreed that before I'd want to recommend a subdivision agreement or development to council in detail, that that they will assure as part of the development, that their sewers, their water everything else-it's purely a voluntary thing-the capital cost of the incidence of hospital care for that big development that would be required if it were a separate community from the Hospital Services Commission. I said, you can't expect those people to stay here- we'll sell you a fine home here, \$15,000 to \$30,000, and we're going to have 16 schools; and you've got a little hospital at Kempville with 15 beds, and that's where they'll go. That's not what they're telling them. They're telling them you've got the big research and treatment of the Ottawa Civic just nine miles away. And there is that angle too...

MR SINGER: And they agreed to that?

MAYOR WHITTON: Yes, they said they would. Now this is the other thing, and there, Mr Chairman, you might...in your references I read it, it might be wide enough to let you confer with the Hospital Services Commission on some relationship between hospital and your contiguous areas. I do suggest that the administration.....

MR SINGER: And you got no outcry for the cost of putting it up?

MAYOR WHITTON: No, and now for the first time...this Warden and I get on pretty well together-he's a very practical man-he's the Reeve of the contiguous township, and he and the Reeve of Gloucester are giving a good deal of leadership there on the water arrangement; and we have another sewer agreement with the Nepean ones-their own sewer system; we're collaborating and catching the big shopping centres ten yards outside of our borders, on closing and this sort of thing, and putting their gas tanks where our roads are going... well it's the whole thing, Mr Chairman, it's a whole thing, it's an enlarging of your region.

MR BECKETT: What about transportation, Your Worship, that's an important factor.

MAYOR WHITTON: This is another thing, as I suggest here later; of course I think the Government of Ontario has been working along a good sound system in classifying your Provincial Highways. Now we have been working with the Highways Department in what will be the most comprehensive transportation and traffic study that has ever been attempted; the province is coming in for 75% of the basic costs, and we've got Quebec to come in and they came up on Tuesday and sat at that conference, and said that he was authorized to assure us Quebec would sign for 100% of whatever this Commission deemed fair, and as far as their municipalities were concerned, they'd answer for them and make their own adjustments; and we had 14 municipalities on on both sides of the river-the Province of Quebec and the Province of Ontario, as coming in on this entire traffic study for the whole area that fits naturally in on both sides of the river; and we're going into the whole thing and taking a planning background. Now there is one of the things that is knocking Hades out of our transport planning; for instance in the city, the city area of Metro Toronto, you set up in your planning, this is going to be single family dwellings; this is going to be multiple; this is going to be industrial, and right across the line there's a township or a big farm. And you plan out there,

and you put a collector road through, and what happens? You've got the contract let , and because it's going there, outside capital again...they have acquired this land across the road; and what are they putting up? They're putting up 10 and 12 storey multiples, and they're putting on 5 acres where ordinarily you'd have 30 perhaps you have contemplated on your side, 30 rather expensive houses or perhaps at a maximum of 25 density to small apartments-600 to 1000. You're going to have parking and everything for 5000 people before you turn around. Well we're going at this ...well you're going to come along- both sides- our official plan is up here, the official plan of this area, and it's against that the plan is for transport, the bridges...

MR SINGER: It's not just transportation planning- it's really overall planning....

MAYOR WHITTON: But they're doing the economic base of the thing, and doing it so thoroughly that we're being protected. We don't have to put in any more on planning; ours is done, Nepean has a lot done; Co has to do some and Eastview and Gloucester will have to do some; but in this there is another question related to this, that I might as well take now, Mr Chairman, but it is the Assessment Act, and this is related vitally.....

MR BECKETT: Where do you get the Assessment Act, Your Worship, I've heard that....any subdivision agreement I have seen transportation...the question of transportation has never been a part of it. The developer has never been asked to...it's all right to provide your streets, but even away out in the suburbs, nothing has ever been put in that they had to provide some means of transportation.

MAYOR WHITTON: Well our Ottawa Transportation Commission does

MR COWLING: Of which you are a member. (laughter)

MAYOR WHITTON: Well yes.

MR MORROW: We contract for them on a losing basis.

MAYOR WHITTON: Well I have got that changed. We are withdrawing any transportation unless they're taking a and are levying for the deficit; our rate is 3 for 50¢ and we were

losing 17¢ an adult a day, and the people of Ottawa carrying this; and any route we're running now, the municipality or the area that we service is going to have to pay this. Just the other day, Mr Beckett, we in the Planning Board had quite a row over this big subdivision; and we said, you're going to need a road through there eventually and this sort of thing; so they were furious because we're not letting them build on it except on one side, and we're taking an 88 foot strip through there and they are going to pay for ...this is a condition- I don't know whether they'll keep it. There has not been this control because of the space between especially in Ottawa. Now with the Federal Government setting up the green belt, they're leaping the green belt and they will go away out there, and this is related to the question...I think there's a change coming, and as the children are getting beyond the elementary school area, there's a moving back to the core communities. They want more diversity; they want activity at night; they just don't want to move only within their own community centre activities. And this is related, in our judgment, fundamentally to parking; and the parking is killing the mass transport in more more ways than one. Of course we have a very aggravated situation, where the federal authority at the top costs the taxpayers of Canada by providing about two parking spaces or three for their buildings, and taking land that is heavily assessed, expropriating it, and putting up public buildings, and putting it out of assessment on parking.

MR BECKETT: Free parking?

MR MORROW: Sure, all those buildings have it.

MAYOR WHITTON: And we have maintained that this is a fringe benefit, and we are at the point ourselves, discussing within the Board of Control, that we will begin by so treating our own municipal authority; we have nearly 140 spaces under the city hall which are heated. You've got the answer to this right here in large part, not only for this, but everything, we think, in the Assessment Act, and this is why I was bringing it in here. The Assessment Act does not allow the taxing of parking space used in connection with a building at all on any basis, business or commercial tax, and the result

is that the City of Ottawa, and this would be true of any of the cities, under the federal grants in lieu of taxes, we're actually subsidizing the federal authority, or any authority that has these, by preferential residential rate that the Province of Ontario evolved to help the private home owner, because you can only charge a residential rate, and we have asked again and again that Section 9 of the Assessment Act be amended to allow this wrong to be righted and to allow this assessment- it's a business....

MR BECKETT: To put a business tax on it.

MR MORROW: We've had other Briefs on this.

MAYOR WHITTON: Yes, to put the business tax on it.

The fact is that with Ottawa getting nearly \$5 million in lieu of grants, of course the Federal Government now between NCC and the public buildings, own nearly a third of the actual land of Ottawa. And the Federal Government is getting the benefit of your preferred residential rate; and the poor little fellow trying to run a hardware shop there and his car parked beside his own building, he cannot get this...there has to be a ten mill spread under the Act, but the Federal Authority for the 10,000 parking spaces is getting the benefit of the residential rate of the Province of Ontario from the City of Ottawa and that goes for everything on the parking; and a simple amendment of Section 9 in the Assessment Act would allow that anomaly to be corrected. Now there is another wrong that's in there that's related, and these are related to transportation, because if people that can get free parking space or very cheap parking all over the city, and they bring the car in, and in the studies we have made, one bus carries as many as 31 cars coming in in the morning or going out at night; and the other,, I think this is related to our revenue and related to this same thing, is that the City of Hamilton lost that appeal in the Ontario Supreme Court about 18 months ago whereby a shopping centre is only taxable for the land it actually occupies; prior thereto we charged each business; if those 20 stores were along Yonge Street or anywhere, each one of them would be assessed for that parking or space...now I have it here (reads) Now the land assessment before

as I said before, was distributed among all the tenants on the proportion of the space of the building that they occupied, so that the commercial mill rate applied 100% on the lands assessed; and the business assessments made against the tenants were computed on 100% of the land assessment. Now that's the standard type across the province. And the Greater Hamilton Shopping Centre appealed this, that as tenant of the Centre, is tenant only on that part of the land lying beneath the building actually occupied-the same area as set out in the lease, and as such, the business assessment should be computed on such lands together with the occupied part of the building; and this has been upheld in the appeal. And what happens? Consequently, if I take one of our shopping centres in the City of Ottawa, the taxes on the land only is \$347,750, of which only \$115,000 is attributable to land beneath the buildings. The balance of the land assessment-\$232,000 is free of commercial rates and business assessment, and one shopping centre cost us \$5,500 in taxes; and that's just one. And this new one that's opening tomorrow has 2700 parking places.

MR BECKETT: What is the difference in your rates in Ottawa- your assessment rates?

MAYOR WHITTON: Now let's see; we have four rates..we have the separate school, residential, separate school commercial, and the public school and the public school commercial and...

MR MORROW: We've had several Briefs on this.

MR BECKETT: Oh yes, several.

MR MORROW: I think it was the assessors themselves that brought this up.

MAYOR WHITTON: Yes the Association of the Assessing Officers of Ontario, they have asked for this, but those two are related to the transportation; and then the other thing that I think is worth consideration, from the point of view of the overall legislation, and the ability of the municipality to handle their own transport, is that where it is publically owned-transport system-or privately owned under contract to a municipality, and those buses never go outside the boundaries of the municipality concerned, that they should have a

nominal instead of this terrific \$250 license fee. What it would mean to the municipality! For instance in our city, those licenses cost more than our fuel and oil last year on our 260 buses; and what it would mean to the province compared to the municipality-just peanuts. And the necessity of raising our rates was in toto a little less than that amount; and the Transport Association throughout the province have asked for it, even the private ones.

MR MORROW: Is that in the Mayors and Reeves submission?

MAYOR WHITTON: No, it's in the Transit Association's submission.

MR BECKETT: You suggest then, Your Worship, that under Section 9, every person carrying on the business which provides car park pay 10%...perhaps that should be amended to any person maintaining a car park...strike out certain words.

MAYOR WHITTON: Yes. The Assessing Officers have offered an exact phrasing, and it would be a much more just thing, and it would be just to your small owner store now being out out of business; and that a business tax be charged on the tenants of a shopping centre-charged just the same as any other business.

MR BECKETT: In that case it wouldnt be the tenant it would be the owner that would be charged.

MR EVANS: In any case if he doesnt pay it directly, he'd be paying it indirectly.

MR BECKETT: Yes, somebody would have to pay it.

MR SINGER: Somebody has to pay it, and if the owner pays, it would be reflected in the rent.

MAYOR WHITTON: Yes. Now this is related to mass transport and it is also related to the present issue; also in respect to the detail of a more realistic administration; now the matter of the provincial grants, now here again with just a little realism and not much cost to the province, there could be great help to the municipality. There are grants that are now so common, so perennial...they may vary a little with the different developments, but they will not, cannot drop below their minimum for years. Those are taken just at

the end of the year, and for six months. Now we've been able in Ottawa to make an agreement with the federal authorities in respect to enlarging the grant that we have got from them; so that they pay us so much early in the year, in June another quarter; in October another quarter and then we get the last at the end of the year; and the interest it saves; and it doesn't inconvenience them. Now in 1960....

MR MORROW: Your Worship, what do you think about putting them on the same basis as the provincial year?

MAYOR WHITTON: You mean the provincial be the same as the municipal....yes, that would be a great advantage to us all; well you take the other day, we got a new senior magistrate, we needed him, and we hadn't any money for him, and he came from the 1st of May; and I had to go down last night to council for a special vote for \$90 for vest and gown; we had budgeted very closely, and of course we thought it was up to the lawyers to get their gowns; it is just as you say about your schools-your millions for your schools. We came down with our budget and the courthouse went like that (snaps fingers) \$900,000- our sharing of it, but \$90 for a vest and a gown for a magistrate, well why didn't the province provide it-they had appointed him. And you get your promotions and everything in the first of May, and I do think the reconciliation of the Ontario with the Municipal year-the Federal because it's remote from us all...but what we would like to suggest, and the Mayors and Reeves have discussed this, and our officials, and that is that if these grants that are known, if they were paid and advanced to the 1st of January, 1st of April and the 1st of July and the 1st of October with a hold back of the fourth quarter you don't get the full; supposing it looks like \$100,000, but we don't get that; there is a hold back. But you pay that, and that by a simple device would help-the smaller municipalities would be helped more-and it wouldn't hurt the province.

MR MORROW: It would save millions of dollars in interest.

MAYOR WHITTON: Yes, and it would do this- it would save you on other things all along the line; you could contract with more certainty; some of our things we may put off so we wouldn't have to

borrow, and that is the other amendment in here, in the practicality of the...it is the Municipal Act, isn't it?

MR EVANS: You'd have to change your election date.

MR BECKETT: There'd be no harm in that- we used to have them January 1st.

MR EVANS: There'd be no harm, but you'd have to change them to the spring....

MAYOR WHITTON: No, but I thought that you would change to the calendar year- the province would change to the calendar year.

MR BECKETT: No, the other way around.

MAYOR WHITTON: Oh heavens, no, you couldn't do that.

MR MORROW: Why?

MAYOR WHITTON: Because business and everything has to operate on 12 months, and they have to...on no I thought the province would change to the calendar year.

MR MORROW: We were thinking that the municipalities could operate on this...have the municipal elections throughout the province all say in the month of...what was it we suggested, March or May or....

MR COWLING: March or April...what difference?

MAYOR WHITTON: You're a bunch of godless loons to suggest that in this province and country with Holy Week and Lent...

MR MORROW: Well it doesn't have to be necessarily in Lent....

MAYOR WHITTON: No, but Easter is the first Sunday after the first full moon after the 25th of March-it cannot fall earlier than the 22nd of March; and it can't fall later than the 24th of April.

MR COWLING: It could be all over before the 1st of April.

MAYOR WHITTON: But there would be campaigning when you should be in church. (laughter) What I'm worrying about is this and I'll tell you; every Roman Catholic and Anglican, the women would be in church; they'd be on their Lenten duties; they'd be on their knees why the woman's vote....

MR MORROW: That's a good place to campaign.

MAYOR WHITTON: Yes, but they couldn't be looking after our cards and votes and telephoning...oh, in England, I think they have trouble with it, because it's that way, because of the Easter... I think you'd run into a lot of trouble, however, with your business year being the 12 months. Our municipal administration is much closer to the people and the business and the merchants than the provincial, and their years and the bank years and everything has to be the calendar. A man does his borrowing for the next year in January, and his taxes are a big feature in it. (chit chat and story) (laughter)

MR COWLING: While you're on that, what do you think of a uniform voting day for all municipalities in the province, that one day be set aside as Municipal Day....

MAYOR WHITTON: When I was a kid it was-it was New Year's Day, and everybody just had the.... the one problem....

MR COWLING: Well that's a long time ago....

MAYOR WHITTON: Yes, it was New Years and election and you got the whole thing over, as far as I can remember.

MR BECKETT: It was cheaper too. It was always between Christmas and New Years for campaigning.

MAYOR WHITTON: Oh yes, it was wonderful. As I say, your father and all the rest of them just had the one day to celebrate and it was cheaper too, I always understood that they always had to give a New Year's Reception and you had just the one day. But I do think there is a great advantage for the one day where you have all your municipal elections.

MR MORROW: Now you have some opinion on the Municipal Act...we never discussed that....

MAYOR WHITTON: Well you take the arrears of our business tax that we get paid in January; and it's sort of tragic in a way- these people get themselves over the hump through their ready Christmas cash; our January take on our arrears is very heavy; and the ability to get the tax rate struck in the first six or eight weeks -it means a great deal to the business men. And I'm talking of the people we want to help and keep in business- the small operator;

and he's having a bad enough time to survive now...

MR MORROW: That's why you'd better get those meters out in Westboro (laughter)

MAYOR WHITTON: Of all the stupid things- 369 people use the meters..... (chit chat)

MR COWLING: You and Don had better talk this over.

MAYOR WHITTON: There was another item on this in your financial regulations, there are some fiscal requirements, as you mentioned, under the Municipal Act, and they're not appropriate now in the big cities." Separate bank accounts be maintained for the capital accounts purposes!..well that isnt necessary and it is not desirable ...you're moving the one to the other. "And all borrowing for current account be by promissory note!" Now that was...when I came into office, I talked it over with the treasurer. Now what did we have? We'd have a 60 or a 90 day promissory note and the bank loved it; and we'd be having that there with a couple of millions of dollars, and we'd have \$6 million in on the current taxation-it was the time of the collection. So we just ran an overdraft. It is contrary to the law but we do it; now your larger cities shouldnt be forced to contravene the law.

MR SINGER: No municipality large or small.

MR EVANS: And many of them are doing it.

MAYOR WHITTON: Yes, well that's it. You take at the present time, a very good loan was made...I'm bringing some of that across- an overdraft for \$10 million- we can get that for $4\frac{1}{2}\%$, and I'm bringing that over here to pay our other stuff down there. Well you should be able to operate with the overdraft...I mean you're only charging what you need...we take our hospital in now and everything on our overdraft, but we're breaking the law when we do it; and the auditors let it go through. We will have millions of dollars on hand in one account-you will have millions in your current with your taxes in, and here's your capital, you cant....

MR SINGER: You cant use it legally.

MR BECKETT: Well you know the purpose of that; on

the one hand one or two municipalities were critized for doing wrong; and on the other hand, you want to loosen it up.

MAYOR WHITTON: I guess; but it's just like a woman, we shouldnt all be condemned for the ones that cant look after themselves. I say here, it should not be necessary for a city like Ottawa to contravene the Municipal Act to assure the best possible and wisest use of municipal funds. That will save interest all along the line; and your auditors, they pass us; and our own bank prefers it- the other banks dont but a promissory note is a very heavy rate of interest. So those were some of the practical things, Mr Chairman. In respect to this question of amending Section 9, following this, we have had one legal firm attempt this. The Court of Revision had thrown it out that the business assessment, if it's based only on the portion used there, then his law office...the business assessment there in that building, the realty assessment should only be on the portion used; and the elevators, foyer, halls, stairs, washrooms, exterior walls, roof, heating plant etc, should not be included in the realty assessment, if this other thing holds. And this is logical. So this would be terrific...you take our Ottawa electric building, which was built as a memorial really to Mr Hearn; and 54% of it is not usable- it's marble halls and corridors etc. Well this would be a disastrous thing, but if they go on that Supreme Court judgment, they have logic behind them.

MR BECKETT: That's right.

MR MORROW: Did you ever think of any other measures other than the square footage, such as gross receipts?

MAYOR WHITTON: That has been suggested, but while we have discussed it, we havent come to a conclusion in respect thereto. We'd be in a little difficulty with the federal authority with gross receipts. (laughter and chit chat) There is a question and I dont know whether that falls under provincial, that is the Crown Corporations pay the taxes to the federal department-the Revenue Department; but they do not-it's left to every Crown Corporation, their own will whether they pay it to the municipality; and I think that's something

that you might like to deal with in respect to what the provincial authority is; for instance, Central Mortgage & Housing with their head office at Ottawa, they paid last year, \$2½ million in corporation tax to the federal authority, but they have declined to pay us even \$1 business or commercial tax; and you have the situation where the Atomic Energy pays the full thing wherever they are; and CBC will pay land but not corporation. And we felt that it might be worth looking into what your powers are and to define corporation subject to the taxation under the Assessment Act; they are interlocked. Now here is something...we also feel that the gas utility should be put on the same basis as the Bell Telephone that the schedule of increasing assessment levy-moving upward with the extension of services-that must utilize the public streets, whether above or under them.

MR BECKETT: Would you assess transmission lines and distribution lines on the same basis?

MAYOR WHITTON: Yes, the same as the Bell Telephone. Then this is another thing-I think this is Municipal Act- but here is something that is happening, particularly to the subdividers who are becoming what I call sky dividers; they're coming in and putting their big buildings up now with business in the building; whereas the realtor is in the business of renting offices and so on; the realtor is subject to business assessment and commercial tax levy; but where the realtor is the owner, and he's operating his own big building-we have several of them, and renting out all that space, he pays no business tax or commercial tax. Now we propose that he be classified as a realtor, and it wouldn't cost him a dollar more, because then it's deductible from his business income and it would be one the most effective and direct transfers, without going through the province and the municipality, of really federal income tax to the municipality; because it would be a deductible business expense.

MR MORROW: Some Members of the Committee think that anyone that's in the apartment business and so on should pay business tax.

MAYOR WHITTON: Well where the rentals for their own use and their tenants are handled by a realtor, the latter is subject

to business assessment and commercial tax levy. Now you take the Rideau Terrace, and they're subject to that tax; Don and is handling that. But Capital , there's 145; he owns the property himself with parking in the back; and he pays income tax on this, but it's a business, and we feel this is a just place to levy business assessment; and it wouldnt cost him \$1 more because it would be deducted from his income tax and he would be paying it to the municipality.

MR BECKETT: Well we've had suggestions whether it is handled by a realtor or not- anybody operating an apartment house, he is operating a business.

MAYOR WHITTON: We suggest the classification of owner-operator realtor; and the real estate people are a pretty good lot- the realtors- they pay good license fees; they submit to a good discipline, and I think they require protection because this is what's happening with these big new apartments, because they're not getting the rentals. This is another new item, Mr Chairman, which has been discussed here, and that is that the land transfer tax- that there should be a fixed percentage of the land transfer tax paid over to the municipality as rebate at the end of the year, because we think that's fair. The municipality that's growing has terrific bills for services, schools, roads, all sorts of development, and then those go and then they even out. Well all of that land transfer tax comes down to the province, and there should be a rebate on it because the municipality that's paying the heaviest is having an increased burden at that time; I havent had this through the council but it was before, and that is that the municipality should have permissive powers for every liquor license that's granted by the province for us to have a rebate....a rebate from the province, because all we get at the present is....

MR SINGER: Do you mean license charges or gallonage charges?

MR BECKETT: You do get a percentage on gallonage.

MAYOR WHITTON: We get a percentage on the fines.

MR EVANS: Dont you have gallonage from the hotels?

and from the cocktail bars.

MAYOR WHITTON: Not from the stores...I mean the licenses that are there-at least this is what I understand- and we get it on the fines, so the more disorderly the citizens, the more profitable it is.

MR BECKETT: You should get it on the hotels.

MAYOR WHITTON: We do on hotels; but this would be for every licensed approved and licensed by the province; because it does add to our police and other responsibilities generally.

MR BECKETT: But you get your business tax though?

MAYOR WHITTON: Yes. There is another point, and I believe this is the last, and that is that you would take a look in the interests of the municipality at employment and relief and the rest, at the illogical application of the federal sales tax and the provincial as now keyed in, on road making and road cleaning equipment, but not on the trucks therein. For instance, we have two orders out at the present, one for \$183,000 for snow cleaning equipment; and another for \$200,000- tenders. Now on the snow ploughs and the snow blowers, they're exempt from sales tax; but on the trucks, on the machinery that breaks up the snow, and the trucks that hauls it away, we pay the tax.

MR BECKETT: That's a federal matter.

MR SINGER: And provincial.

MAYOR WHITTON: No, but you are just as simple minded as the federal- you've gone and applied these in the provincial instead of trying to make this change; and here we feel, like the provinces, we're making representation on it. But this is one of the craziest things. When you have heavy snow like us, you've got to have experienced men- you've got to keep a core of them the year round; and the men repair all our equipment in the summer. The other day somebody was taking a ride out of us that we had \$10,000 for snow removal cost in July. We did- we were fixing up some of the trucks and we couldn't get anything on this charge but snow removal (laughter) (chit chat re stencilling of trucks etc) I just wanted to point out there are anomalies throughout the sales tax; and the other thing,



certainly I was up here on that unemployment two or three years ago, and we certainly understood at that time that the capital assets of the company- the motor companies- the Transportation Commission- that their vehicles for this type of work and their buses would be exempt from sales tax; we were buying \$200,000 worth more, and it meant quite a bit; but the regulation has been interpreted that this is not so. Now the working capital of a transportation company is , and peculiarly enough, the application of that- I should not be speaking for Toronto- the buses that run in the subway and on our rails are tax exempt; but the-anything that meets them on Bloor Street is subject to the tax; and it's an old tradition from the railways- the rolling stock. But it's not the same thing at all. They're buses; if you run your transportation system in an underground way, you're tax exempt; if you run it above board, you're liable, and it is a fantastic thing. (laughter and chit chat) Thank you very much, Gentlemen.

MR BECKETT: Well Your Worship, it is certainly very nice of you to come up here to meet with the Committee, and it is very interesting to hear your views, and I assure you the Members of the Committee will take them under consideration. Are there any questions from the Members of the Committee?

MR SINGER: (newspaper article re Mr Cass asking for Briefs etc on Assessment Act- answered by Mr Beckett)

MR BECKETT: Well, Your Worship, if you have any further thoughts or suggestions, please send them along.

